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NO. 615

(1)

Supreme Court, U.S.
FILED

SEP 15 1988

JOSEPH E. SPANGLER, JR.
CLERK

IN THE SUPREME COURT OF THE
UNITED STATES

OCTOBER TERM 1988

John E. , John J. , and Judith A Reardon,
Petitioners,

VS

Virginia Reardon, Theodore H Costa, David
C. Epler, Dr. Marshal Gordon, Dr. David H
Goldstein, Judges Natal, Miller, and Scar-
duzio, Camden Co. Court System, and any yet
unknown person or agency.

Respondents.

John E. Reardon

Petitioner,

VS

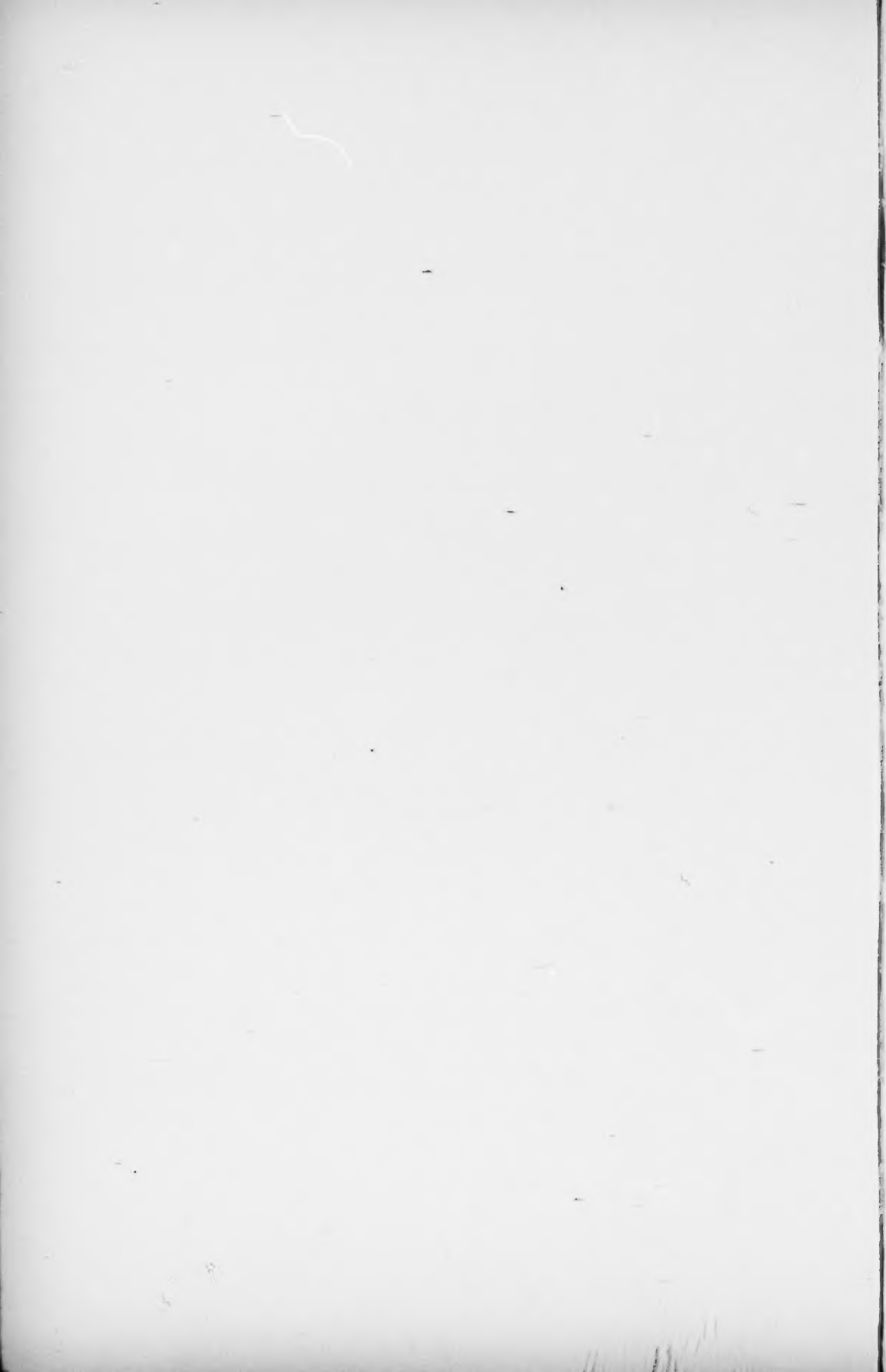
Virginia Reardon, Sgt. Smarziaski, Ann Cara
, Twp. of Voorhees, and the Police Dept. of
Voorhees.

Respondents.

PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

John E. Reardon
Oakridge Terrace-B33
Runnemede, N. J. 08078
(609) 931-5066

254 pp



QUESTIONS PRESENTED

1. Did the court have jurisdiction over the subject-matter of these cases based upon the allegations?
2. Did the court error and/or abuse its discretion and/or properly dismiss these matters that were premised upon frauds and conspiracy when it has established a trial/criminal level of pre-trial review of conspiracy, denied due process of law, denied a right to amend, denied the right to discovery, denied the right of oral argument and/or hearing to present evidence, and re-considered an issue

already settled in violations of the principle of Res Adjudicata?

3. Did the court error and/or abuse its discretion in finding there was no "Action under Color of Law/State Action"?

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3. John M. Armstrong, D. A. G.

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- Judges Miller, Scaduzio, Natal and Smith

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PETITION FOR WRIT OF CERTIORARI TO
THE UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

The above named petitioners respectfully pray that a writ of Certiorari is -sue to review the Judgements and opinions of the United States Court of Appeals for the Third Circuit and of the U. S. District Court for the Eastern District of New Jersey, entered on 5/19/89, 6/19/89, 12/18/88 and 1/5/89 respectively.

OPINIONS BELOW

The opinions of the lower courts have been reproduced for the convenience of the court and are located in the appendices at pages 1-42 of the appendix.

JURISDICTION

Since this petition has been submitted prior to the expiration of ninety days from the date of the last order, jurisdiction of this court is invoked by way of 28 U. S. C. 1254(1).

STATUTES/PROVISIONS INVOLVED

1] 28 U. S. C. 1331: The District Courts of the United States shall have original jurisdiction over all cases arising under the Constitution, laws or Treaties of the United States.

2] 28 U. S. C. 1343[3]: To Redress the deprivation, under color of State law, statute, ordinance, regulations, custom or usage, of any privilege, right or immunity secured by the Constitution of the United States or by any Act of Congress providing for the equal rights of citizens or of all persons within the jurisdiction of the United States.

3] 28 U. S. C. 2201: In cases of actual controversy within its jurisdiction, Any Court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking

such a declaration, whether or not further relief is or could be sought. Any such declaration shall have the force and effect of a final judgement or decree and shall be reviewable as such.

4] 28 U. S. C. 2202: Further necessary or proper relief based on a declaratory judgement or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgement.

5] 42 U. S. C. 1983: Every person who, under color of any statute, ordinance, regulation, custom, usage of any state or territory, subjects or causes to be subjected

, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws of the United States, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress.

6] 28 U. S. C. 1738: In order for any order of any state to be given full faith and credit in any other court of law, the order must bear the Seal of the Court, if such a Seal exists, a certification from the clerk that it is a true and valid order, and an attestation from the Judge

that everything is in order.

7] U. S. Constitution, Art. IV, [A], Sec. 1: Full Faith and credit shall be given in each State to the Public Acts, records, and Judicial Proceedings of every other State. And Congress may by general Laws, prescribe the Manner in which such Acts, records and Proceedings shall be proved, and the effect thereof.

8] N. J. A. C. 2A: 13-1 reads: Every counselor at law or attorney at law, shall, before he is permitted to practice in any court of this state, take and subscribe in open court the following oath: "I. . . ., do solemnly promise and swear, that I will sup-

port the Constitution of this State and the Constitution of the United States and will perform the duties of my office faithfully to the best of my ability. So help me God.

-10 reads: The county clerk of any county in which any such attorney at law shall have filed his autographed signature and certificate, as provided in Section 1 of this Act, shall, upon request, subjoin to any certificate of proof, acknowledgement or affidavit signed by the attorney, a certificate under the clerk's hand and seal stating that the attorney at law was at the time of taking such

proof, acknowledgement or affidavit duly commissioned and sworn and residing in this state, and was as such an officer of the State duly authorized to take and certify the proof or acknowledgement or affidavit as well as to take and certify the proof or acknowledgement or affidavit..... and other instruments in writing to be recorded in this state. That said proof, acknowledgement or affidavit is duly executed and taken according to the Laws of the State; That full faith and credit are and ought to be given to the Official Acts of the Attorney at Law.

STATEMENT OF THE CASE

On June 30, 1988 Mrs. Reardon did meet with Dr. Goldstein and Theodore M. Costa. At this meeting Mr. Costa agreed to place his name to the documents to be presented to the court¹ for proof in this matter. The affidavit submitted by Mrs. Reardon contained material Mr. Costa knew or should have known was false and/or barred from being relitigated and he submitted said affidavit and papers anyway.²

During this same meeting Dr. Goldstein did agree to submit an unsworn letter.

1. See items 7 & 8 under the Statutes and provisions involved.

2. The affidavit submitted by Mrs. Reardon through

Mr. Costa contained the allegations of my supposed wrong doing during the marriage which had been litigated by Judge Paige in 1984 and found in Mr. Reardon's favor, contained allegations that Mr. Reardon is strong enough to "rip a car door off its hinges" when the hinges of a door are tested to a tensile strength of 5000 ft. lbs. of pressure and especially when this allegation had also been raised in the 1984 trial and it was disclosed that all that was broken was a side rear window. He implied that a 125 lb. female who holds a black belt in martial arts has a reason to fear this "200 lb. 6 ft. tall man" especially when this man was known to have knee and back problems and in fact was out on workman's compensation from the Postal Service for more than 6 years with back problems and implied in the affidavit that Dr. Goldstein confirmed and agrees with Mrs. Reardon's "conslsions" that Mr. Reardon is in fact psychotic when in fact Dr. Goldstein admitted in reply to Federal Case #87-2823 that he had made no such finding or conclusions/agreement.

which when read separately by any person would lead any person to conclude that he was agreeing with the conclusions of Mrs. Reardon when he knew he was not. He released confidential information regarding Mr. Reardon to Mrs. Reardon while refusing to release similar information in his possession about Mrs. Reardon to the court or Mr. Reardon and in fact implied he had other information on Mr. Reardon but never once put forth this information, what it is, where it came from and the Validity of its basis. After this material was prepared, Mr. Costa turned it over to Mrs. Reardon and she did then

take this material, and after somehow obtaining access directly or through a friend, used Judge Miller's rubber stamp to place his signature with said stamp on the signature line and to also mark said papers filed by the judge.³ when the plaintiff learned of the fact that the order was in fact strongly in question as to being that of the Judge at

3. Here the court contends that the plaintiff was merely alleging that Mrs. Reardon or a friend rubber stamped the 7/2/87 order as filed and thereby applied the standard in *Lockhart v Hoenstine*, 411 F. 2d 455, 460, 3rd cir., cert. den 396 U. S. 941 (1966). However, the charge intended to be implied here is that Judge Miller in no way had any connection with the 7/2/87 order and had no knowledge any such order existed till

all, Mr. Reardon filed this suit alleging the denial of due process to a fair and impartial hearing, denial of the equal protections of the law, denial of all parental rights, infliction of cruel and unusual punishment, denial of a right to trial by jury for a criminal offense. ⁴

Threat, intimidation and harrassment in the free exercise of my rights, and tak-
the morning of 7/14/87. See arguments under Point 2
(D) at pages of this petition.

4. In *Duncan v La.*, 391 U.S. 145, this court found that if a matter in the state could be tried in Federal Court--in that case it was a question of contempt--and if so tried required a trial by jury, then the state must grant such a right to any person whether state law so provides it or not. Here, the charge against Mr. Reardon was threat to do violence conveyed

ing of money after having threatened extortion under 18 U. S. C. 1961, et seq., the petitioners contended that such processes were accomplished by means of frauds and conspiracy. The jurisdiction of the lower court was invoked under 28 U. S. C. 1331, and 28 U. S. C. 1343.

During the pendency of the proceedings, one pre-trial conference took place and at that conference, which was not transcribed in violation of common law by mail. Under 18 U. S. C. 1768, this offense carries a possible 2 year sentence and thus required a trial by jury. This was denied to Mr. Reardon even though he waived no rights and so stated this to the state court in his papers.

notions for fairness and a record for later proof on appeals, the magistrate in no way questioned subject-matter jurisdiction. At that conference, it also came to the petitioners attention that Mrs. Reardon's Counsel, respondent Epler, was not admitted to the bar of the federal court and sanctions were asked as well as an order seeking to prevent this conduct and was denied by both the magistrate and Judge Thompson (App. @ 85-92). Subsequent to this conference, Mr. Epler and Mrs. Reardon filed a motion to consolidate case 88-782 and case 87-3605 and to dismiss on summary judgement motion.

for want of jurisdiction Mr. Reardon objected to this motion, requested leave to amend, requested right to complete discovery, requested a right to oral argument to place into evidence his electronic recordings that had not been transcribed yet or in the alternative a stay to complete certain aspects of discovery because plaintiff was unable to defend his position on his affidavit alone and all requests were denied by Judge Thompson, and the cases consolidated and dismissed.

However, prior to the filing of case 88-782 in Trenton, this same identical case was filed in Washington, D. C. on Feb-

ruary 2, 1988. In that case, the court dismissed for want of venue prior to service of the summons and complaint. The Appeals court later reversed on the grounds that "venue and personal jurisdiction" are threshold questions required to be plead by the defendants and may be waived if not timely plead. Both Mr. Reardon and the State raised the issue of subject matter jurisdiction over these cases, and in answer the court stated "The appellant alleges numerous violations of his constitutional and Federal Statutory Rights". (App. @ 68 & 69)

In August of 1987, Mr. Reardon was do-

ing no more than exercising his right of access to public places to try and locate a friend and ran into Mrs. Reardon in the lobby of this building. The respondent did then swear out a warrant for Mr. Reardon's arrest based on the claimed violation of this court order. Officer Smarziaski took the complaint and affidavit for the warrant whereupon he did then contact the respondent Cara to sign the warrant and whereupon she did even though the law of New Jersey--case law and rules of court--was she was prohibited from signing such a warrant without any of the warrant mandating cri

-teria being met. While the plaintiff was not arrested, he was unconstitutionally harrassed in the exercise of his rights and he filed case 87-3605 for just such threats and charged the state officers as well. *Pierson v Ray*, 386 U.S. 547. Since Miss Cara had admitted it was a common practice to randomly issue such warrants, the petitioner sought declaratory relief to prevent all future such wrongs and sought damages as well. The defendants moved for summary judgement motion on the grounds of qualified immunity and the courts granted such motion and dismissed. The petitioners were denied the

right to discovery to ascertain who adopted this "random warrant" policy, he was denied the right to amend to include the Township for this and for failure to properly supervise and failure to properly train. At no time would the court allow amendment to this matter and when motion to dismiss was made by Mrs. Rear-don in case 88-782 both cases were dismissed. (App. @ 47-51) The petitioners also asked for any relief deemed appropriate by the jury or the court in both cases and this was ignored by the court.

On Appeal, the petitioners raised issue with the error of the court in grant

-ing summary judgement for want of juris-
-diction, without leave to amend, without
discovery whether an attorney who acts
according to some State Statute to per-
form a function of the state who in turn
gives these actions the same full faith
and credit of all state acts under Art.
IV acts under color of law, whether the
court was barred by *Res Adjudicata*,
whether the petitioners were entitled
to default or sanctions for the conduct
of Mr. Epler and Mr. Potter, whether a
claim was stated for relief and whether
the cases should have been consolidated.
On May 19, 1989 the Court of Appeals af-

firmed the lower court decision. The petitioners then requested a Re-Hearing In Banc on the grounds that the court had failed to adhere to decisions of its own circuit, decisions of this court and decisions of the various circuits in concurrence on the same topics.

REASONS FOR GRANTING THE WRIT

The petitioners respectfully submit that a petitioner for certiorari should be granted in these matters on the grounds that (1) the lower courts have entered orders which are in direct contradiction to the decisions of virtually every other circuit court of appeals on

the same issues; (2) the decisions are in direct contradiction to earlier decisions of its own circuit on the same issues; and (3) it has failed to uphold the decisions of this court on the same issues.

LEGAL ARGUMENTS

1) DID THE COURT HAVE JURISDICTION OVER THESE MATTERS?

The lower courts have determined that the Federal Court lacks jurisdiction over these matters. In so doing it has failed to comply with decisions of other circuits and of this court. On Feb. 2, 1988 the petitioners filed this exact same

case in the U. S. District Court of Washington, D. C. While the lower court dismissed for want of venue, on appeal--pending prior to the motions to dismiss in these matters, App. @51, 60, 64 & 65--the Court of Appeals, Docket No. 88-7083, found that the appellant had alleged numerous violations of Constitutional and Federal Statutory rights. App. @66-72 . Given the precise wording of 28 U. S. C. 1331 and 28 U. S. C. 1343, there is no question the lower court had jurisdiction over the subject since this was priorly before the court of appeal in D. C. , was raised by Mr. Rear-don in that matter and also raised by

the State. The ruling of the lower court now countering this position is a direct contradiction of a decision of another circuit on exactly the same case and same issues. 5 (app. @93-135)

The second basis upon which the courts' decisions should be reviewed as to this aspect comes from the point of view of immunity. Immunity by nature is defined as the right of exemption from liability for having done something wrong. As this court has noted in the re-pleat of all case law on this general subject is that it is an affirmative de-

5. A more detailed and indepth argument on this point is made in point 2 below and abuse by the court.

fense which must be plead and proven by the defendant *Toledo v Gomez*, 446 U.S. 635, 640, 1980. Given this standard and definition, it then is obvious that to grant jurisdiction to a defendant automatically implies that they have committed a wrong over which the Federal Court has jurisdiction over to grant such immunity, App. @27. Since the court has granted immunity to the Judges, it must by necessity have jurisdiction over the matter as the Court of appeals so found. But, if jurisdiction is not the Questions, What is? How can the lower court claim it has jurisdiction over the state defendants and

not the private defendants when Conspiracy, Lending of authority and sanctioning the private wrongs of the individual were alleged? *Addickes v Kress & Co.*, 398 U.S. 144; *Lugar v Edmondson Oil*, 102 S. Ct. 2744, 2748 & *Civil Rights Cases*, 109 U.S. 8

2(A) Was the lower court barred by principles of Res Adjudicata from re-diciding this issue of jurisdiction and from allowing the defendants from raising it?

This court was presented with this exact same question and problem in the case of *Sullivan v Behiner-Elakis*, 363 U.S. 335, 339, 348, 350, 1960. In that case, the

petitioners asked this court to decide an issue of venue and jurisdiction together. However, the petitioners failed to raise that objection to venue/jurisdiction in the first forum. In the instant case, the respondents did the same thing. They chose not to plead or defend in Washington, D. C. While it is true that the defendants in the previous case were served and in this case they were not, the question goes to fundamental principles of comity and justice. The petitioners appealed the decision of the district court in Washington, D. C. prior to any dispositive actions taken in this

case. In the D. C. Appeal both the petitioner and the State raised the issue of subject-matter jurisdiction. In fact, the state implied such jurisdiction existed, and while the parties were aware of the appeal and its content, questions, and implications, they failed to participate in that matter.⁶

In *Behimer SUPRA* the court reasoned that where a party is given opportunity to raise an issue and fails to so raise it that principles of res adjudicata

6. In the appeal in D. C. the petitioners informed the appellees that according to the case law criteria the issue of subject matter jurisdiction had to first be decided before a question of venue/personal jurisdic-

apply. Virtually every circuit has upheld this principle. *In Re Korean Air-lines Disaster of 9/1/83*, 829 F. 2d 1171, 1181, 1987 D. C. cir.; *Nemaizer v Baker*, 793 F. 2d 58, 65, 1986 2nd cir.; *Hunt v Bankers Trust Co.*, 799 F. 2d 1060, 1068, 1986 5th cir.; *Hiley v U.S.*, 807 F. 2d 623, 626, 1987, 7th cir.; *Teyseer Cement Co. v Halla Maritime Corp.*, 794 F. 2d 472, 477, 1986 9th cir.; *Williams v Life Sav. & Loan*, 802 F. 2d 1200

tion could be decided. On petition of rehearing to the 3rd circuit, the petitioners raised issue with this legal criteria on subject-matter jurisdiction, that the D. C. case was filed and pending prior to this case and motions and That principles of res-adjudicata applied as well as right to discovery, amend, and to be heard to present evidence.

, 1202, 1987 10th cir. and Nat. Ass. of Repub-
-lic Utility Com'rs v F. E. R. C., 823 F. 2d
1377, 1382, 1987 10th cir.

Given the principle of res adjudicata has been held to apply on this issue of jurisdiction in virtually every circuit, and given that *Insurance Corp. of Ireland v Compagnie Des Bauxite*, 102 S. Ct. 2099, 2105 on petition from the 3rd cir., which found that personal jurisdiction is a waivable defense if not timely plead, the court has failed to adopt the findings of other circuits and of this court, and has thus changed the well settled law on this issue.

(B) Did the court abuse its discretion in dismissing these matters without offering the petitioners a right to discovery? Or deny Due Process of law?

If this case were a simple dismissal under Rule 12, there may not be a right to discovery. However, this was a summary judgement dismissal for want of jurisdiction. It in no way classified the petitioners complaint as frivolous as this court has found to be required. In *Rae v McDougal*, 102 S. Ct. 700, 701, the court found that if the plaintiff was able to pass the first stages of defense, i. e. the

court having jurisdiction and there being a claim upon which to grant relief, the court could, after full hearing and discovery, if the case proved to have no valid basis, dismiss the case as being frivolous.

In this frame or context, the dismissal would in effect be for want of jurisdiction based upon the merits of the allegations. Where this process is to take place, the courts have consistently held that where a dismissal for want of jurisdiction is to be tied to the merits of the allegations, the party opposing such dismissal must be accorded oppor

-tunity to discovery. *Bell v Hood*, 327 U.S. 678, 1946; *Gordon v National Youth Work Alliance*, 675 F. 2d 356, D. C. cir. , 1982; *Nar-tinez v Hospitale Prespeterianodela Comunidad Inc. , 806 F. 2d 1128, 1132, 1st cir. 1986; Kamon v American Telephone & Telegraph Co. , 791 F. 2d 1006, 1011, 2nd cir. 1986; Adams v Bain, 697 F. 2d 1213, 4th cir. 1982; Stewart v R. C. A. Corp. , 790 F. 2d 624, 629 , 7th cir. 1986; Timberlane Lumber Co. , Inc v General Telephone and Electron-ics Corp. , 594 F. 2d 730, 9th cir. 1979.*

In fact, the District Court for the Eastern District of Pennsylvania, relying on *Bell Supra* found in *Miller v U.S. , 530*

F. Supp. 611.

In considering a motion to dismiss for want of subject matter jurisdiction, it may weigh the evidence to determine if it has jurisdiction, but Fundamental fairness requires the non-moving party be afforded opportunity to conduct discovery so that he can, if possible, meet his burden of establishing jurisdiction

This same principle of due process was utilized in the 3rd, 5th, 6th and 9th circuits in relying on *Insurance Corp. of Ireland SUPRA* where the courts found respectively.

A dismissal for want of jurisdiction without according the non-moving party a hearing on the merits is error. *Hueblein Inc. v Gen Cinema Corp.*, 722 F.2d 29, 34, 3rd cir. 1983.

Due process of law requires that a party be afforded opportunity to conduct discovery to attempt to defend his position if he can. *DeNelo v Toche Marine, Inc.*, 711 F.2d 1260, 1263, 1270, 5th cir. 1983; *White Motor Corp. v Citibank N A.*, 704 F.2d 254, 258, 6th cir., 1983; *Wyle v R. J. Reynolds Industries, Inc.*, 709 F.2d 585, 591, 9th cir. 1983.

The petitioners asked for a right to be heard on the record to present evidence and was denied. They asked for a right to stay to complete discovery and they were denied. How can due process of law be had in such circumstances? How can any person defend a case he is being denied the rights the law requires to be provided to him to so defend? App. @47-55 & 161.

Even this court found in *Harlow v Fitzgerald*, 457 U.S. 800, 1982:

Summary Judgement should not be granted unless discovery proves there are no genuine issues of fact.⁷ _____

(C) Should the court have permitted the petitioners a right to leave to amend? or Can such a motion be made by objecting to a motion for summary Judgement?

As the court can see, the petitioners were denied the right to leave to amend in the interest of justice. The third circuit has consistently held that where a court is going to dismiss for want of 7. At this point, the arguments now turn to whether any significant facts exist or that should have been permitted to be explored, or whether a stay should have been granted to provide this pro se person time to transcribe his electronic recordings since a hearing/oral argument was denied. These things will be discussed in part D below.

Jurisdiction or for lack of specificity, it must grant the plaintiff opportunity to amend. *Colburn v Upper Darby Twp.*, 838 F. 2d 663, 1988; *Ross v Neagon*, 638 F. 2d 646, 1981; *Rotolo v Boro of Charleroi*, 532 F. 2d 920, 1977; *Kaufmann v Moss*, 420 F. 2d 1276, 1970; and *Negrich v Hohn*, 379 F. 2d 213, 1967.

In fact, in *Colburn SUPRA* the Court found that once a matter is dismissed, the right to amend is lost/denied and the parties only option is to then request leave to amend. They also found that is a party raises the question of leave to amend in response to a motion,

it is not a fatal flaw because of any failure to file a separate motion *Id* @ 666. If, however, jurisdiction generally existed over the subject as admitted by the Court of appeals in D. C. and by a dismissal of the State on immunity principles, should not leave to amend to correct the conspiracy allegation defects have been permitted rather than dismissal? The 3rd cir. relied on *Foman v Davis*, 371 U.S. 178, 1962. Or, should not discovery have been permitted on this topic to allow the petitioners opportunity to try and defend this position?

Also, the third circuit has consistent

ly held, in relying on *Insurance Corp. of Ireland SUPRA* That the court must dismiss for want of subject-matter jurisdiction on its own and may never address such a dismissal on motion for summary Judgement. *Solomon v Solomon*, 516 F. 2d 1018, 1975; *Trent Realty v 1st Fed Sav. & Loan Ass. of Phila.*, 657 F. 2d 29, 1981; and *Cospisito v Califano*, 89 F. R. D. 374, 1981 See also *International Ladies Garment Union v Donovan*, 722 F. 2d 795, 806, D. C. cir. 1983; *Gayda v Lot Polish Airlines*, 704 F. 2d 12, 15, 1st cir. 1983; *Fuente v Gen El. Co-Op, Inc.*, 703 F. 2d 63, 64, 3rd cir. 1983; *Kendal v Overseas Devel-*

opement Corp., 700 F.2d 535, 538, 9th cir.

1983.⁸ "Subject matter jurisdiction" dismissalals must be made by the court's own motion and is not a matter for summary judgement. Virtually all circuits have held this point true except in this case.

(D) Has the court abused its discretion in dismissing this matter when the petitioner has alleged fraud in obtaining the state court order has properly alleged facts for conspir-

8. The lower court found that the petitioners failed to state any matter over which the court could take cognizance of. According to *Kendal v U.S.*, 12 Pet. 524, 622, cognizance is defined as the power/jurisdiction/authority of a court to hear a matter. App. @37.

acy and has the right to declare
the rights of any person for protec-
-tions purpose including wether or
not a state court order may be val-
idly enforced?

This court has held that when chal-
lenging the validity of an order based
upon lack of jurisdiction or because of
a fraud in obtaining the order, they are
one in the same arguments and if either
are proven, the order is not voidable, but
simply moot because you cannot void that
which is allready invalid. *Whitman v
Thompson*, 18 Wall 457, 467-469, cited in
Insurance Corp. of Ireland SUPRA @ 2103.

In this case, the petitioners alleged that the order of 7/2/87 was not only rubber stamped as filed by Mrs. Reardon or a friend, but that the Judge's signature was a rubber stamp signature and that the judge knew nothing of this matter till the morning of the 7/14/87 hearing, and nor did the petitioners till approximately 1/14/88. If this is the case, then Mr. Reardon was brought into court on a fraud and upon an entirely false order. If this is the case, *Whitman SUPRA* found that it does not matter what transpired in the proceedings as the act that brought it there was a Fraud. Since

the petitioners tried to obtain a rehear-
-ing in the state, by filing a motion in
Oct. 1987 and this was denied, the petition-
-ers rights of association, society, and
of love, company and companionship have
and continue to be denied by this fraud.
see *Kelson v Springfield*, 767 F. 2d 651,
9th cir. 1985. To say the least.

Also, this court found in *Ex Parte*
Young, 28 S. Ct. 441, 455, 1928, that the pow-
er of the court to here a matter is de-
rived by the standing/ability of the per-
-son to bring such a matter to the court
. If the 7/2/87 order was not signed by
Judge Miller because he was hearing no

matters that day, and on 7/14/87 the judge was then presented this matter that he knew he did not hear and sign, he of necessity had to know of the wrong and had to have willfully sanctioned it or acquiesced to it. (See App. @ 29.) This then is willfull participation by the state in a criminal wrong and amounts to state action and action under color of law by necessity. This is not mere innocent wrong of the judge making a ruling on a matter properly brought before him, this is intent to sanction and participate in such conduct. This is far from the "allegation of a dis-gruntled losing party"

as the court has termed it.

If then there was a conspiracy to accomplish this, then the private actors could be found accountable under *Lugar*, *Addicks* or *Civil Rights Cases SUPRA* or *Dennis v Sparks*, 101 S. Ct. 188. The facts in this case should have been clear to the court.

The petitioner concluded from these facts that there was a conspiracy and concerted effort to deny the equal protections of the law, to deny them their rights to each other and to deny due process of law. The court took a different view on the grounds that it failed to

consider all allegations. This may have come in part due to the fact that on July 26, 1989, the petitioner and a friend learned that this 60 page affidavit of specific facts in opposition to dismiss was not in the docket for either 88-782 or 87-3605 even though the petitioner has a marked copy reading received. (see App. @141)

In making its decision then, the court has ignored the criteria set by this court in *Addicks SUPRA*. In that case the court found that where a significant question such as why was the officer there throughout the entire incident pre

-vented summary judgement and that the jury and not the judge should try this issue as to the proofs. If there was no conspiracy in this matter why do the following questions persist without resolution

1. Why did the lower court refuse to require the defendants to provide a copy of the state order that complies with Art. IV(A) Sec. 1, and 28 U. S. C. 1738? and Why did the defendants refuse to provide the court or the petitioner with such a copy? Is it because this would then create a controversy between what the judge and the clerk have now attested to

as oposed to the electronic recordings in petitioners possession?

2. Why did Dr. Goldstein submit a hearsey letter that was deliberately mislead-ing and then refuse to testify to such?

3. Why did Mr. Costa agree to submitt papers he knew or should have known were false & misleading?

4. Why were the respondents in a private Ex Parte Conference with the judge prior to the hearing?

5. Who signed the 7/2/87 "Rubber Stamp-ed" order since the court heard no matters on that day?

6. Why did Mrs. Reardon look to the

judge for guidance instead of her attorney? and Why did this Judge provide said guidance in the form of a hand gesture?
(App. @74(E))

7. Who ordered the armed guards into the court room and to move in on the petitioner?

8. Why did the court and parties do everything they could to ensure the matter was set up one sided? ⁹

In this case the court has examined
9. because of the complexity of this case, and the extent of the facts, it is impractical to list every fact and every possible question of importance. Further, App. @ 142 demonstrates the pre disposition of the lower court to rule. In Case #88-5571--also before

only the complaint and without benefit of the missing 60 page affidavit. For the facts are far more numerous than the court has claimed and the majority of these facts are somehow missing from the dockets of these matters. If this case did not involve Federal Issue questions the petitioners would not disagree with its reliance on *Rosquist v Jarret SUPRA*. But the case law in all circuits clearly indicate the rights requested by the petitioner should have been granted and Judge Thompson, her initial dismissal order is identical to these petitioners and was also so dismissed without prior notice, leave to amend, hearing, or rights to discovery.

were not. With the above questions in existence and the failures on the part of the lower courts, they have in fact adopted a position regarding state proceedings which is contrary to the *Thompson* Court, *Id.* 467-469 on fraud and jurisdiction and thus has applied Art. IV in a fashion not contemplated by its intent and so specified by the *Thompson* Court as well. At minimum, given 28 U. S. C. 1738 the petitioners should have been permitted to require a conformed copy of the order.

31(A): Was there state action or under color of law action in these

matters?

There are four possible avenues with to bring private parties into Federal Court. According to the Cases of *Addickes and Dennis SUPRA*, a Federal Court could acquire jurisdiction over said parties if a conspiracy was involved. This court further found in *Civil Rights Cases SUPRA*, if a state or any of its agents somehow sanction the private wrong doing of the individual, then again their is state action and in *Lugar SUPRA*, this court found that where a state or its agents lend their authority to the private person or the private person acts

under color of some state statute that the private wrong now becomes the wrong of the state and again there is state action or action under color of law which are synonymous terms. See *LUXAR SUPRA* petition of certiorari, their Appendix B.

As the court has consistently noted, if private parties conspire with state officials there is action under color of law/state action. In this case, the court has found that it has jurisdiction over the subject-matter to grant immunity to the state officials, and then has set out to alter the very intent of conspiracy claims by then ruling that once the

state officials are no longer party to the matter, that it is then dealing with "purely private acts". Once reaching this point, it then claims it has no jurisdiction over such acts and begins to rule that without a subject to have jurisdiction over, the concerted wrongs do not amount to a conspiracy. To prove this she cites the case of *Rosquist v Jarret*, 570 F. Supp. 1206, 1211 (D. N. J. 1983) However, in that case the court first found that there were no constitutional rights involved before it reached the conclusion it did on conspiracy. In this case, we have the Court of appeals admitting the

"numerous allegations of violations of Constitutional and Statutory Rights", and we have the lower courts admitting jurisdiction at least to grant the state officials immunity. Therefore, there are rights involved for which the court had jurisdiction over. Once this threshold was accomplished, the questions raised in *Addickes and Dennis SUPRA* become controlling and the court has ignored these cases. It is true that it does cite *Dennis SUPRA*, but after citing it, it then goes on to conclude that the conspiracy allegations are insubstantial because the court lacks jurisdiction and the al-

legations thus made do not support conspiracy. This position runs contrary to the well settled law that a pro se party is to be given every consideration, *Haines SUPRA*, cited by the D. C. Court of appeals in *Reardon, et al v Reardon et al*, #88-7083. It runs contrary to the well settled law that all allegations must be taken as true, *Boag v McDougal*, 102 S. Ct. 700 and it alters the intent of *Addickes SUPRA* and the right of the jury to hear all questions of fact and for summary judgement when significant issues exist, and that the court may not consider the evidence or testimony of the defendants

over that of the plaintiff. The questions presented under Point 2(D) above clearly raise significant questions of fact as applied to the law. And, as the court found, such a circumstance precludes summary judgement. However, the distinguishment should be made that in both *Addicks* ~~es~~ and *Boag* SUPRA, the plaintiff was afforded a hearing and discovery or the court was required to provide such to the plaintiff and in this case the court has failed to provide any of the rights associated with such dismissals to these petitioners. These are not mere mis-applications of the law and/or facts to the

law, these are intentional mis-applications of the laws by intentionally ignoring the facts due to the courts pre-disposition to rule, and not just in these petitioners' cases. ¹⁰

The criteria in *Civil Rights Cases* &

10. First, the petitioner Mr. Reardon admits that it may possibly be error on the part of the court regarding not citing all the facts due to the fact that on 7/26/89 a check of the dockets of 87-3605 and 88-0782 revealed that the 60 page affidavit of specific facts received by the clerk Mr. Walsh, see app. @163, was nowhere to be found in either docket. WHY?, and how can a court order therefore be valid if the court has not considered all the allegations to the complaint because they were not placed into the file for review? However, the petitioner is inclined to believe this decision and failure to docket this 60 page affidavit is intentional. See ft. nt. 8 above.

Lugar SUPRA is clear in its intent and the lower court has failed to conform failed to conform to it. This criteria held that if a state official/agent commits either of these two acts, the private wrong is now a public wrong. Of course it cannot be mere disgust on the part of the losing party. Here, the charge was that as per an electronic recording with Judge Miller's staff--people with first hand personal knowledge of the cir She failed to inform the plaintiffs in that case she intended to dismiss the matter and the reason thereof. This indicates an appearance of prejudice/pre-disposition to rule and effects the appearance of justice. *Offut v U. S.* 348 U. S. 11, 13-15, 1954.

-cumstances--Judge Miller did not sign the 7/2/87 order and that because such signature was rubber stamped, this presented circumstantial evidence/fact that warranted further investigation as per the requirements of Art. IV and 28 U. S. C. 1738 and warranted "favorable inference" to be granted to the petitioners. If the state judge heard no matters on that day he could not have "rubber stamped the order" and therefore could not have known about the matter as alleged. This then constitutes a fraud on the part of Mrs. Reardon as alleged, it constitutes the existance of a fraudulent order, it

constitutes the sanctioning of a private wrong by a state official, it constitutes the lending of authority to ensure the proceedings came out in a certain fashion, and considering all the wrongs that were done and alleged, it must of necessity also constitute concerted effort to ensure the results. 11

The same is true for case 87-3605. If the state case law and rules of court court are that a clerk may issue a war-
11. Conspiracy is defined as a joint effort to accomplish an illegal act by legal means or a legal act by legal means. And, considering there are federal issues involved, if the results sought/anticipated by the wrong doer was accomplished, then there is injury and the loss of the rights through this effort which is

rant only if one of the warrant madating criteria is present, and that such affidavit must be taken by the clerk and not the officer, and that the officer is aware of the "domestic violence law criteria" and is shown an outdated order, this too constitutes more than mere using of state process.

As to the issue of a private person acting under color of some state statute or one who performs a Public Function In the State of New Jersey, there are but two classes of person authorized to make certification of truthfullness of any doc the very essence of federal jurisdiction in conspiracy cases. see instruction to jury in such cases.

-ument or affidavit for use in court for proof of a claim They are Attorneys--including prosecutors, the Attorney General and Deputy Attorney Generals--and "NOTARY PUBLICS". According to *Pierson SUPRA* citing *Ex Parte Virginia*, 100 U.S. 369, any act which may be performed by more than one "person", is of necessity administrative in nature. In this case the petitioners alleged that the respondent Costa, Esq. agreed to place his name to falsified affidavits, and misleading papers. In performing this act he performed an administrative function And carried it out through an illegal act. (i. e. the

fraudulent act of omission in withhold-
-ing from the court the papers were in
fact deliberately false and misleading.)
Given further that *Thompson SUPRA* @ 467

-469 found that where a fraud is alleged
in obtaining the order that the order is
moot. Here, the fraud by the attorney in
presenting the papers and that of Mrs.
Reardon in "rubber stamping the order".

This is not like the circumstances ruled
on in *Folk Co. v. Dodson*, 454 U.S. 312, 1981
where the allegations involved the at-
torneys representation of a party or his
client. This involves actions which are
administrative in nature, which may be

performed only by licensed people--i. e. both N. J. and Pa. prevent any person from acting as counsel for another person because they are not "attorneys", and which require forthrightness and honesty to the court. 12

No person is permitted to violate the law, as this is precisely what grants the courts power to then hear a case for injury. The petitioners did not raise issue 12. See items 7 & 8 of statutes/provisions involved. also, the American Jurisprudence manual holds that an attorneys first duty is to justice, his second is to the court and his third is to the client. In N. J. the courts have held that an attorney who knowingly permits his client to commit a fraud upon the court is guilty of contempt. Also, rules of ethical conduct pre-

with Mr. Costa's discretionary power. They raised issue with the right of the attorney to participate in illegal activity of his client or to carry out such acts himself. The court has ignored these differences and have failed to deal with this issue as it pertains to state action/action under color of law.

Given further that more than 80 fathers are waiting to see the results of this case, *Sanders v Sanders In Camden*, *Baumgarner v Warth in Trenton*, and now, *Auxer v Auxer* just filed in Camden, and vent an attorney from failing to disclose any information or participating in or permitting his client to participate in illegal activity. Rules 3.1, 3.3 and 3.4.

all of these fathers have complained of the same/similar problems and the Jersey courts are not listening. Where are they to turn to enforce their rights and have them protected. *See Alma Motors v Timkin Co. 329 U.S. 129, 139.*

CONCLUSIONS

For all the forgoing reasons, the lower court orders should be set aside and the case remanded for proper treatment and further proceedings.

I hereby certify under oath and penalty of perjury that the forgoing statements of fact are true and accurate to the best of my knowledge and belief.

September 9, 1989

John E. Reardon
JOHN E. REARDON FOR
The Petitioners.



APPENDIX

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UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 89-5035

John E. Reardon

vs.

Virginia Reardon, Sgt. T. Smarzyaski, Voor-
hees Police Dept. , Voorhees Twp. , Judge
Keiko, The Runnemedede Police Dept. , The
Boro/Twp. of Runnemedede, Ptlmn C. Vancamp
and Ann Cara.

D. C. Civil No. 87-3605

John E. Reardon, Judith A. & John J.
Reardon

vs.

Virginia Reardon, David C. Epler, Judge
Scarduzio, Judge Miller, Judge Natal,
County of Camden, The Court system,
Marshal Gordon, Dr. Goldstein, Mr.
Costa and any yet unknown person or
agency.

D. C. Civil No. 88-782

John E. Reardon, John J. Reardon

and Judith A. Reardon

Appellants

Appeal from the United States District

Court

for the District of New Jersey

(Trenton)

District Judge: Honorable Anne E.
E. Thompson

Submitted

May 10, 1989

Before: Mansmann, Hutchison and Van Dusen,

Circuit Judges

JUDGEMENT ORDER

After consideration of all contentions raised by appellant, it is

ADJUDGED AND ORDERED that the judgment of the district court be and is hereby affirmed.

Costs taxed against appellant.

BY THE COURT

Circuit Judge: Carol Los Mansmann

Attest: _____

Sally Mrvos, clerk

May 19, 1989

Costs taxed in favor of Voorhees Town-
ship, et al appellees as follows:

TOTAL OF BRIEF..... \$151.96

Costs taxed in favor of Dr. Marshal Gor-
-don, appellee as follows:

TOTAL OF BRIEF..... \$193.00

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

NO. 89-5035

John E. Reardon, et al,

Appellants.

VS.

Virginia Reardon, etc.

SUR PETITION FOR REHEARING

PRESENT: Gibbons, Chief Judge, Higginbotham
, Sloviter, Becker, Strapleton, Mansmann,
Greenberg, Hutchinson, Scirica, Cowen,
Nygaard, and Van Dusen, Circuit Judges.

The petition for rehearing filed by appellants in the above entitled case having been submitted to the judges who participated in the decision of this court and to all other available circuit judges of the circuit in regular active service, and no judge who concurred in the decision having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court in banc, the petition for rehearing is denied.

Filed: June 19, 1989

BY THE COURT

CAROL LOS MANSMANN, CIRCUIT JUDGE

UNITED STATES COURT OF APPEALS

FOR THE THIRD CIRCUIT

No. 89-5035John E. Reardon

John E. Reardon, et al

VS

VS

Virginia Reardon,

Virginia Reardon, et

et al

al

Trenton N. J. D. C.

Trenton N. J. D. C.

No. 87-3605

No. 88-782

John E. Reardon,

John E. Reardon, John J.

Reardon and Judith A. Reardon, Appellants

Present: Mansmann, Hutchinson and Van

Dusen, Circuit Judges.

Motion by appellants for an order Barr-
ing the Appellees from Answering/Respond

~~ing/Participating in this Appeal for~~

ing/Participating in this Appeal for
failure to comply with Rule 9 of the
Rules of this Court;

To decide the Matter on Appellant's
Brief Only;

And to Set aside the Matter for deci-
sion Only after the U. S. Supreme Court
has decided the Petition for Re-Hearing
in case 88-894;

Copy of Clerk's Order dated April 13,
1989 sent for the information of the
court.

Deputy Clerk 7-5019

ORDER

The forgoing motion is denied
Dated: July 5, 1989 By the Court,

Carol Los Mansmann-Circuit Judge

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

JOHN E. REARDON : Civil No. 87-3605
 : (AET)

Plaintiffs, :

v

VIRGINIA REARDON, :
 et al :

Defendants. :

OPINION

JOHN E. REARDON, :
 et al :

Plaintiffs, :

v

: Civil No. 88-782
 : (AET)

VIRGINIA REARDON, :
 et al :

Defendants. :

THOMPSON, District Judge

This matters comes before the court
 on motions filed by various defendants
 in these two actions to consolidate the

cases and to dismiss the complaints on a variety of grounds. Both complaints deal with alleged deprivations of federal rights which plaintiff, John E. Rear-don, contends he has suffered in a continuing series of court proceedings he has had with his wife following their divorce in July 1984. Since their divorce, plaintiff has filed a successive number of federal lawsuits against his former wife, various private citizens, judges, and state officials and agencies challenging the procedure and results obtained in state actions involving his divorce, child custody and other related

matters. A brief review of several of these actions provides a context in which to consider plaintiff's current lawsuits before this court.

For example, in March 1985, Judge Stanley S. Brotman of this district consolidated and disposed of three complaints filed by Mr. Reardon which alleged that his wife, various judges, attorneys, and other private and state actors has conspired to deprive him of his federal rights in his original divorce action, appeal and subsequent disposition of marital property. (see Civ. Nos. 84-3696, 84-5203, 85-97, Opinion dated March 20,

1985). Judge Brotman observed that "[p]laintiff has brought claims against nearly every private citizen and public official having some connection to his [matrimonial] proceedings." Id. at 10. Judge Brotman found that none of the plaintiff's "voluminous submissions" had alleged any substantial claims upon which relief could be granted and dismissed the consolidated complaints.

Subsequently, plaintiff filed several new federal actions, two of which were considered by Judge Joseph H. Rodriguez of this district in December 1987. (See Civ. Nos. 86-408, 87-2823, Opinion dated

December 22, 1987.) In Civil No. 86-408 plaintiff filed suit against his wife and various state officials apparently challenging the educational classification of his son. As Judge Rodriguez recounts, while Civil No. 86-408 was pending, Virginia Reardon applied to the Superior Court in Camden County for an order enjoining plaintiff from coming into contact with the children because of her alleged fear for their safety. The honorable John Miller, J. S. C., signed the temporary restraining order on July 2, 1987.¹ On July 21, 1987, plaintiff

1. Judge Rodriguez indicates that plaintiff also filed

Filed Civil No. 87-2823 against his wife , Judge Miller, and others. Plaintiff apparently alleged various perceived proprieties in the matter before Judge Miller including that "the state does not have jurisdiction or authority over the children and is in fact holding them captive against their will." Id. at 5. After consolidation the two actions before him, Judge Rodriguez dismissed all claims.

Apparently, Mr. Reardon's difficulties in the state courts concerning his matri
an action against Judge Brotman and others in Civil No. 85-3560 raising many of the same allegations as Civil No. 86-408 and which was stayed pending the results in Civil No. 86-408.

-monial and child custody concerns have continued, as has his attempts to seek redress in the federal courts for his perceived deprivations. Following a plea-nary hearing held on July 14, 1987, Judge Miller by order dated August 17, 1988, continued the restraints against Mr. Reardon and ordered that he seek evaluation and counseling with a doctor, after which the court would consider whether the restraints should be modified. In her affidavit submitted in Civil No. 87-3506, Mrs. Reardon alleges that Mr. Reardon approached her and the children on August 15, 1988 and that on

August 17 she also signed a complaint at the Voorhees Police Department based upon his alleged violation of Judge Miller's court order. Defendants in Civil No. 88-782 indicate that the charges ultimately were dropped, but that in October 1987 plaintiff was found to be in contempt by Judge Scarduzio for violating the prior orders of judge Miller. Plaintiff filed several federal actions in response to these events, two of which are now before the court.

In Civil No. 87-3605, filed in September 1987, plaintiff charged his wife, various police departments and officers,

and Judge David Keyko had all violated plaintiff's rights concerning the incidents surrounding the aforementioned complaint filed by Mrs. Reardon in August 1987 at the Voorhees Police Department. By Memorandum and order dated June 1988, the court granted summary judgement to all defendants in the case except Mrs. Reardon and Judge Keyko, neither of whom had moved for summary judgement at the time. In short, Mr. Reardon's complaint in 87-3605 against his ex-wife seems to be that she should not have filed the complaint in August because she should have known that Judge Miller's prior restrain

ing order was invalid. As to Judge Keyko, plaintiff complains that the judge "demonstrates an irrationally improper, and abnormal behavior which is psychotic," and in the plaintiff's opinion is "unfit to sit on the bench in any court or state." Mr. Reardon also charges that Judge Keyko was biased against him because Mrs. Reardon worked in Camden - County Courthouse and "in all likelihood has a cordial and friendly relationship with this judge." Plaintiff states that the only relief he seeks against Judge Keyko "currently" is that the judge be barred from sitting on any matter in

which he is involved.

In civ. No 88-782, filed in this court in February 1988, Mr. Reardon continues his attack on his wife, her attorney, various judges, the Camden County Court system, and several private citizens, all of whom plaintiff continues to believe have conspired to deprive him of his rights. The court has reviewed carefully plaintiff's lengthy and somewhat unfocused complaint. In particular, plaintiff appears to be most troubled by the aforementioned decisions by Judge Miller in the summer of 1987 concerning plaintiff's visitation of the children and the

subsequent efforts by Mrs. Reardon to enforce these restraints in the fall of that year. In Count 1, entitled "Extortion", plaintiff recounts his collected criticism of these events. He begins by alleging that in June of 1987, Mrs. Reardon, her attorney, Mr. Costa, and a psychiatrist, Dr. Goldstein, conspired to file false affidavits in order to deprive plaintiff of his parental rights. He noted that Dr. Goldstein was warned to "stay out of the matter all together [sic] or he would be sued." Plaintiff then contends that during the judicial hearing in July (presumably the order to

show cause before Judge Miller), proper proceedings were not followed. He provides little more than conclusory unsubstantiated allegations concerning this charge, such that he was forced to testify against himself, that Mrs. Reardon failed to carry her burden of proof, and that the court lacked jurisdiction and was a "kangaroo court". He claims that Mrs. Reardon and Mr. Costa have continued to seek enforcement of this "unconstitutional" order of Judge Miller and that Judge Scarduzio has "extorted" plaintiff's compliance therewith. He continues that the state has "manipulated"

matters by allowing "non-tenured" judges to be assigned to his cases and that the judges have acted outside their authority and are "flaunting" their power. Finally, at the conclusion of Count 1 he again appears to raise the issue, dealt with by judge Rodriguez in Civil No. 86-408, concerning the educational placement of his son

Count 2 of the complaint largely contains the same general allegations of various perceived wrongs suffered by Mr. Reardon in the state court during this period of time. He also adds a criticism that courts favor "motherhood" and that

the term "best interest of the child" is a "fraud" and is used by judges to discriminate against fathers. He also claims that the state courts unlawfully "seized" control of his case because he had already filed a suit in federal court; and that therefore, his October 23, 1987 contempt citation by Judge Scarduzio is invalid. 2

Finally, in Counts 4-9, the plaintiff

2. the court notes that plaintiff has entitled count 2 "18 U. S. C. 241". However, this statute is part of the criminal code, and there is no basis to find that it would provide plaintiff with a private cause of action therefore, apart from the reasons set forth in the remainder of this opinion, Count 2 should be dismissed on this basis alone.

continues his attack raising the same challenges as those specified above, but under different headings including "Right to Associate", "Redress of Grievance", and "Cruel and Unusual punishment" among others. 3

The court first will address defendants' motion to consolidate these two actions. under Fed. R. Civ. P. 42 (a), in its discretion, the court may consolidate two or more pending actions when they in

3. Count 7 entitled "Peonage" raises a rather unique and curious claim wherein plaintiff argues that New Jersey has placed men in a state of peonage by forcing them to support their children while refusing to give the custody and control over the children

-volve common questions of law or fact. Both actions have been brought by plaintiff against his ex-wife and various state court judges and others concerning his treatment by the courts. The time frame of both suits appear to be primarily the summer and fall of 1987. Therefore, the court finds that consolidation of Civil Nos. 87-3605 and 88-782 would avoid unnecessary cost to all sides and will so order.

The court next will consider plaintiff's claims against the various judges who have had various contacts with his cases in state court. First, as to Judge

Keyko who is the only judge named in 87-3605, the court notes that the only relief plaintiff seeks "currently" is that Judge Keyko not be permitted to sit on any matters involving plaintiff. As a preliminary matter the court sees no basis in the allegations raised by plaintiff which by any stretch of the imagination, would warrant recusal of the judge. Moreover, not only is no case apparently pending before Judge Keyko involving Mr. Reardon, but a federal district court would have no jurisdiction to order the recusal of a state court judge.

In Civil No. 88-782, plaintiff has named several judges including Judge Miller and Judge Scarduzio, and seeks monetary damages from them as well as their removal, it would appear. However, it is well-established that in actions seeking damages, judges are entitled to absolute immunity. Stump v Sparkman, 435 U.S. 349 (1978). Plaintiff has set forth no facts to show that these judges were without jurisdiction or engaged in activities which were not "judicial acts". All were empowered to hear the matters presented to them and rendered decisions which they were authorized to

make. Therefore, they are entitled to absolute immunity. *Id.* at 360. Moreover, as was true with Judge Keyko, despite plaintiff's conclusory allegations, nothing in his voluminous pleadings and submissions would suggest in any way that the conduct of these judges was improper. Therefore, the court finds that the claims against the various judges are all subject to dismissal.

The court will turn next to plaintiff's claim against the "County of Camden" and the "Court System". Although his allegations in this area are particularly vague and unfocused, plaintiff

appears to seek to hold the county and court system generally liable for his alleged improper treatment by the judges before whom he has appeared. However, even if his claims against these judges were meritorious, his claims against Camden County and the Court System must fail. Under 42 U. S. C. 1983, a plaintiff must allege and prove a particular defendant knowingly violated his rights or acquiesced in such a violation by a subordinate. Vicarious liability will not support a section 1983 claim Hampton v Holmesburg Prison officials, 546 F. 2d 1077, 1082 (3rd cir.

1982.) Even if plaintiff could show some-how that either the court or the courts were "responsible" for the judges, he has failed to set forth any facts to make out a section 1983 claim against them. In addition, to the extent that plaintiff's amorphous claims against these two defendants are a challenge to the particular clerks who implemented the orders of the various courts, his actions would also be barred. Lockhart v Hoenstine, 411 411 F. 2d 455, 460 (3rd cir.), cert. denied 396 U. S. 941 (1969).

Similarly, plaintiff's claim in Count 2 that the state courts "illegally seiz-

ed control" over his cases is wholly without merit. The mere fact that plaintiff filed suit against a state judge 20 minutes prior to the return date of an order to show cause does not render the state court's consideration of the matter before it improper. This is particularly true in a situation where the federal suit was dismissed for lack of jurisdiction, as plaintiff acknowledges.

The court will now consider the allegations raised against Mrs. Reardon, Mr. Costa,, her attorney, and the other individual defendants. Plaintiff's complaint regardin private actions of these part-

ies would not be cognizable under 42 U. S. C. 1983. Thus, regardless of how odious Mr. Reardon considers the private actions taken by his ex-wife and others concerning custody of the children, his concerns are not within the subject matter jurisdiction of this court due to the state action requirement of section 1983.

Under Dennis v Sparks, 449 U. S. 24 (1980), an individual may, however, bring charges of conspiracy under 42 U. S. C. 1983 against private persons if he can demonstrate that they have acted in concert with state actors. In order to make out such a claim, a plaintiff must show

that the private and public parties have "directed themselves toward... unconstitutional actions by virtue of a mutual understanding or agreement". Rosquist v Jarrat Construction Corp., 570 F. Supp. 1206, 1211 (D. N. J. 1983) Conclusory, unsupported allegations of such an unlawful agreement fail to give rise to a claim under this standard. Dennis supra at 28. Also, the mere fact that the federal plaintiff was on the losing side in state court does not entitle him to allege a conspiracy and seek relief against those who sought relief before the state tribunal. Id. at 28-29.

In these actions, plaintiff has failed to provide anything other than his bare, unsupported allegations that his ex-wife and others conspired with any of the judges assigned to his matters. On the contrary, the complaint itself merely indicates that Mrs. Reardon, through her attorney and supported by evidence from Dr. Goldstein and others, sought an order from the court limiting Mr. Reardon's contact with his children due to her apprehension over his behavior. After several orders were entered by Judge Miller during the summer of 1987, the complaint shows that she merely

sought to enforce the restraints which resulted in a contempt finding against Mr. Reardon issued by Judge Scarduzio.

There is no basis in the submissions to support plaintiff's conclusion that these judges conspired with Mrs. Reardon and others to deprive him of any of his constitutional rights.⁴ On the contrary, plaintiff simply appears to disagree

4. Plaintiff contends that the judges hearing his cases were biased against him because his ex-wife worked in the courthouse, and he supposes that "in all likelihood she has a cordial and friendly relationship" with the judges. However, as Judge Brotman found when plaintiff raised a similar charge in 84-3496/5203/85-97, this charge of bias is conclusory and without any showing of special treatment. Accordingly, this allegation fails to support a colorable claim of conspiracy.

with the outcome of matters before the state courts. There is nothing to indicate that plaintiff was treated unfairly or that he was deprived of any rights during his custody litigation. This court, of course, is without power to review the merits of the decisions reached by these state courts sitting within their jurisdiction. In short, plaintiff has chosen the wrong forum to challenge the results in those proceedings.

Finally, as to any additional equal protection or due process challenges contained within his complaints, the court would find them to be wholly without

merit and subject to dismissal. His various counts in Civil No. 88-782 all present similar challenges, no matter how the court is labeled or the allegations phrased. As discussed at length above, plaintiff believes he has been unfairly treated, by virtually everyone connected with his custody and matrimonial disputes, from his wife, the the lawyers involved, to the judges assigned to the cases. However, no matter how he presents his position, the fact remains that the complaint is completely devoid of any facts which could present a claim cognizable in federal court.

December 9, 1988.

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY

JOHN E. REARDON : Civil No. 87-3605 (AET)

Plaintiffs, :

v :

VIRGINIA REARDON, :

et al :

Defendants. :

ORDER

JOHN E. REARDON, :

et al :

Plaintiffs, :

v :

Civil No. 88-782 (AET)

VIRGINIA REARDON, :

et al :

Defendants. :

For the reasons stated in this
court's opinion filed even date herewith
, it is on this 10th day of December 1988

ORDERED that Civil No. 87-3605 and Civil No. 88-782 be and hereby are consolidated; and it is further

ORDERED that summary judgement be and hereby is granted in favor of all defendants and the consolidated action be and hereby is dismissed.

Anne E. Thompson, U. S. D. J.

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

JOHN E. REARDON : Civil No. 87-3605 (AET)

Plaintiffs, :

v :

VIRGINIA REARDON, :

et al :

Defendants. : MEMORANDUM AND ORDER

JOHN E. REARDON, :

et al :

Plaintiffs, :

v :

: Civil No. 88-782 (AET)

VIRGINIA REARDON, :

et al :

Defendants. :THOMPSON, District Judge

By opinion and order filed December,
1988, this court granted motions by de-

fendants to consolidate and dismiss the above actions. The court found that the complaints filed by plaintiff against his ex-wife, several state court judges, and various public officials and private parties was devoid of any facts which could present a claim cognizable in a federal court. Plaintiff has filed a motion for reconsideration, to amend his complaint, and for other relief. The court has reviewed plaintiff's submissions and finds that he presents no basis for relief requested.

Therefore, it is on this 4th day of January 1989,

ORDERED that plaintiff's motion be
and hereby is denied.

Anne E. Thompson, U. S. D. J.

docket No. filing date Nature R
 district off. yr. number or mo. day yr. j suit 23
 0312 1 87 03605 1 09 01 87 3 440

judge Jury MDL Docket

Mag demand ARB Docket yr. Number

1230 12BC P N 87 03605

CAUSE: 42 U. S. C. 1983--Other Civil_Rights

Plaintiffs

John E. Reardon

Defendants

Virginia Reardon

all other de-

fendants removed

TAG

ATTORNEYS

John E. Reardon, Pro Se

Oakridge Terrace-B33

Runnemedede, N. J. 08078

DAG John M. Armstrong

NJ Division of Law

R. J. Hughes Justice Complex

CN-116

Trenton, N. J. 08625

Attrny. for deft. Judge Keyko

(609) 984-2403

FILING FEES PAID

<u>Date</u>	<u>Receipt Number</u>	<u>C. D. Number</u>
9-2-87	\$120.00 #91118	
8-24-88	#107337 \$105.00	

DATE NR. CIV. # (87-3605) PROCEEDINGS

- 9/2/87 1 complaint, filed 9/1/87 (jury Demand)
- 9/2/87 Summons issued on 9/1/87 and returned to plaintiff (pro se) for service, 20 days.
- 9/2/87 2 Notice of allocation and assignment, filed. (Camden, Rodriguez.)
- 9/25/87 3 answer of Voorhees defendants, filed 9/21/87. Robert M. Kaplan-attorney.
- 10/6/87 4 Answer by Runnemedede defendants, filed. Maolney and McCafferty-Attorneys.

DATE NR. CIV. # (87-3605) PROCEEDINGS

- 10/9/87 5 Amended answer of Voorhees
defendants.
- 10/19/87 6 Answer by Virginia Reardon,
filed 10/16/87.
- 10/30/87 7 Notice of motion by state
for extension of time to
plead, filed. ret. 12/18/87
- 10/30/87 8 certification of John M. Arm
-strong, filed.
- 11/21/87 9 substitution of attorneys
for Voorhees defendants, fil-
ed.
- 12/6/87 10 Affidavit by pltf. in re-
sponse to state defendant

DATE NR. CIV. #(87-3605) PROCEEDINGS

for extension of time, filed
12/30/87.

1/15/88 11 Notice of motion of Voorhees
defendants for summary judge-
ment, filed 1/14/88. ret. 2
/19/88 ORAL ARGUMENT. Rule
78, AET, 5/16/88.

1/29/88 12 Notice of motion of Runne-
mede defendants for summary
judgement, filed. ret. 3/25/
88. Rule 78, AET, 5/16/88.

1/29/88 13 Affidavit of Steven C. Van-
camp, filed.

2/4/88 14 Rebuttal followup to Mr. Kap

DATE NR. CIV. # (87-3605) PROCEEDINGS

-lan's lettered brief, filed.

2/17/88 15 Notice of Motion by pltf. to
stay summary judgement, filed
2/16/88. Rule 78, AET, 5/16/
88.

2/17/88 16 Affidavit of pltf., filed 2/
16/88.

2/23/88 17 order of re-allocation from
Camden to trenton, filed,
copies to all parties.

3/5/88 18 Notice of motion by pltf.
for court to recuse, ret' ble
5/16/88, with statement in
lieu of brief, certification

DATE NR. CIV. # (87-3605) PROCEEDINGS

in support. , filed 3/31/88

(P. O. Sub.) Rule 78, AET, 5

/16/88.

2/29/88 19 Notice of motion by state
for extentsion of time to
plead, ret' ble 6/20/88, filed.
(P. O. Sub.) Rule 78, AET, 6/
20/88. .

5/24/88 20 Minutes of hearing on 5/16/
88 before Thompson, filed.
5/16/88.

6/9/88 21 Memorandum and order denying
plaintiffs motion for recus-
al, denying pltfs. motion to

DATE NR. CIV. #(87-3605) PROCEEDINGS

delay ruling on summary
judgement motions. Motion by
defendants for summary judge
-ment is granted, filed 6/6/
88

6/17/88 22 Notice of Motion by pltf.
for reconsideration ret' ble
7/18/88, filed. Rule 78, AET
, 6/20/88

6/20/88 23 Minutes of hearing before
Judge Thompson, filed 6/20/
88.

7/8/88 24 Memorandum & order granting
motion of state to answer

DATE NR. CIV. #(87-3605) PROCEEDINGS

within 15 days of receipt of
this order filed 7/1/88.

7/18/88 25 Minutes of hearing of 7/18/
88 before Judge Thompson,
filed.

8/2/88 26 Memorandum and order denying
pltfs. motions for reconsid-
eration, filed 7/21/88.

8/4/88 27 Answer by state, filed 7/22/
88.

8/23/88 28 Notice of motion by defnt.
Reardon to consolifdate ac-
tion with CV 88-782, to dis-
miss all actions against

DATE NR CIV. #(87-3605) PROCEEDINGS

defts. , etc. ret' ble 9/15/88

filed 8/22/88.

8/24/88 29 Notice of appeal by pltf. of
order of 7/21/88 fld. 8/23/
88. copies to all counsel of
record.

8/24/88 Record submitted to USCA
for purposes of Appeal.

9/2/88 30 Notice of motion by State to
consolidate this action with
CV 88-782, and for summary
judgement. ret' ble 10/17/88,
filed, 8/25/88.

9/12/88 31 Notice of Motion by pltf.

DATE NR. CIV. #(87-3605) PROCEEDINGS

for leave to stay court's actions, accept answers as timely and/or postpone hearing date and pre-trial conference date with affidavit, filed 9/6/88.

9/21/88 32 Transcript purchase order, filed 9/13/88. (none requested)

9/21/88 **RECORD COMPLETE FOR PURPOSES OF APPEAL. (PARTIES NOTIFIED)**

11/18/88 33 Cert. copy of order of USCA dismissing appeal due to a

DATE NR. CIV. # (87-3605) PROCEEDINGS

jurisdictional defect, filed
10/17/88.

11/22/88 34 Copy of minutes of 10/17/88,
filed 10/17/88. (see #28 & 30
above) (AET) (Rule 78)

12/13/88 35 Copy of opinion and order
consolidating Civil No. 87-
3605 and Civil No. 88-782
and order granting summary
judgement of all defts., the
consolidated actoin is dis-
missed, filed (AET) in fav-
or (NM).

12/27/88 36 Notice of motion of pltf. of

DATE NR. CIV. # (87-3605) PROCEEDINGS

reconsideration, leave to
amend & Answer unadressed is
-sues, ret' ble 1/17/89, fld.
12/23/88.

1/6/89 37 Memorandum order denying
pltf's motion of reconsidera-
tion, filed 1/5/89. (AET)(NM)

	docket No.		filing date		Nature R
district off.	yr.	number or mo.	day yr.	j	suit 23
0312	3	87	00782 1	02 08 87	3 440

judge	Jury	MDL	Docket
Mag demand	ARB	Docket	yr. Number
1230	12AB	P	87 00782

CAUSE: 42 U. S. C. 1983--Other Civil Rights

Plaintiffs

Defendants

John E. Reardon,	Virginia Reardon, Dav
Judith A. & John	-id Epler, Judge Na-
J. Reardon	tal, Judge Scarduzio
	, Judge Miller, Co. of
	Camden, The Court
	system & Marshal
	Gordon and any yet
	unknown person or

ATTORNEYS

John E. Reardon,	David M. Goldstein
pro se	pro se
Oakridge Terrace-B33	214 W. Main St.
Runnemede, N. J. 08078	Suite 102
	Moorestown, N. J.
John M. Armstrong	Ann C. Pearl, Esq.
Hughes Justice Complex	Ass. County Coun
CN-116	14th Flr., Crt. Hse
Trenton, N. J. 08625	Camden, N. J. 08101
	Defentans Reardon
	and David C. Epler
	41 Grove St.
	Haddonfield, N. J.

FILING FEES PAID

<u>Date</u>	<u>Receipt Number</u>	<u>C. D. Number</u>
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2-11-88	104729-\$120.00	
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DATE NR CIV. # (88-782) PROCEEDINGS

2/11/88 1 Complaint filed 2/8/88.

2/11/88 2 Notice of allocation and assignment, filed.

2/11/88 Summons issues

6/8/88 3 Answer to complaint by defnt. Goldstein, filed 6/3/88

6/8/88 4 Order scheduling conference for 7/12/88 at 11:00 am, filed. (JWD)

6/16/89 5 Answer by deft. Reardon, filed 6/13/88.

6/16/88 6 Answer by deft. Epler, filed 6/13/88.

6/22/88 7 Objection by pltf. to response

DATE NR CIV #(88-782) PROCEEDINGS

to complaint, filed

7/12/88 8 Answer by State defts., filed
7/6/88.

7/12/88 9 Notice of motion by County
defts. to dismiss complaint
and amended complaint in
lieu of answer, filed 7/6/88.

8/4/88 10 Letter by deft. Goldstein
seeking to join motion to
dismiss, filed 7/27/88.

8/9/88 11 Same as #9 above. filed 8/4/
88. Rule 78, AET, 9/15/88.

8/23/88 * see item #28 of case 87-3605

9/2/88 ** see item #30 of case 87-3605

DATE NR CIV. #(88-782) PROCEEDINGS

9/12/88 Notice of motion by pltf. for
leave to stay court's action
, accept answers as timely
and/or postpone hearing date
pre-trial conference date
with affidavit, filed 9/6/88.

9/19/88 12 Minutes of hearing of 9/15/
88, filed 9/15/88.

10/24/88 13 Minutes of 10/17/88, filed 10
/17/88. (see # * & **)(Rule
79-AET)

10/27/88 14 Order to Show Cause Why case
should not be dismissed, ret'
ble 12/7/88 before JWD, filed

DATE NR. CIV. #(88-782) PROCEEDINGS

- 11/3/88 15 certified receipt returned,
filed. (see #14 above.)
- 11/22/88 16 Order amending return date
of order to show cause from
12/7/88, to 12/5/88, filed.
- 12/1/88 17 certified receipt returned,
filed. (see #16 above.)
- 12/9/88 18 Order discharging the Order
to show cause ret' ble 12/5/
88, filed.
- 12/13/88 19 Opinion and order concoli-
dating Civil No. 87-3605 &
Civil No. 88-782 and order
granting summary judgement

DATE NR. CIV. #(88-782) PROCEEDINGS

in favor of all defts. and
consolidated actions dis-
missed, filed.

12/15/88 20 Minutes of 12/15/88, filed
12/15/88.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

John E. Reardon, et al	:	
	:	
Plaintiffs,	:	C. A. No. 88-0286
	:	
v	:	
	:	
Virginia Reardon, et al	:	
	:	
Defendants.	:	

ORDER

The court having reviewed plaintiff's complaint and application for a temporary restraining order, and it appearing that venue does not lie in this court because the claims arose in New Jersey and all defendants reside there, see 28 U. S. C. sec. 1391, it is this 4th day of

February, 1988,

ORDERED, that plaintiff's application for temporary restraining order is DENIED.

FURTHER ORDERED, that this action is dismissed.

George H. Revercomb, Judge

UNITED STATES COURT OF APPEALS
FOR THE DISTRICT OF COLUMBIA

NO. 88-7083

SEPTEMBER TERM, 1988

C. A. No. 88-0286

John Reardon, and for Judith A.

Reardon and John J. Reardon,

Appellants,

v

Virginia Reardon, et al.

APPEAL FROM THE UNITED STATES DISTRICT

COURT FOR THE DISTRICT OF COLUMBIA

BEFORE: Wald, chief judge; Edwards and

Williams, circuit judges

JUDGEMENT

This case was considered on the record on appeal from an order of the United States District Court for the District of Columbia. the court has determined that the issues presented occasion no need for a published opinion See D. C. Rule 14(c). For the reasons stated in the accompanying memorandum, it is

ORDERED AND ADJUDGED that distict court's order filed February 4, 1988, sua sponte dismissing appellant's complaint for lack of venue, be affirmed in part and vacated and remanded in part.

the clerk is directed to withhold issuance of the mandate herein until seven

days after disposition of any timely petition for re-hearing. See D. C. Cir. Rule 15.

PER CURIAM

No. 88-7083-**REARDON V REARDON, ET AL**

MEMORANDUM

Pro Se appellant John A. Reardon (Reardon) ¹ appeals the district court's order dismissing sua sponte his complaint for lack of venue.

Reardon is a resident of the state of New Jersey as are all appellees. Reardon filed an exhaustive civil complaint in

1. Appellant also seeks to represent his minor children, Judith and John J. Reardon.

the district court seeking to obtain a temporary restraining order against three members of the state judiciary and several private citizens. Appellant alleges numerous violations of his constitutional and federal statutory rights. After making a finding of improper venue, the district court sua sponte denied Reardon's motion for a temporary restraining order dismissed the complaint.

In Anger v Revco, 791 F.2d 956 (D. C. Cir. 1986)(per curiam), this court held that a district court may not sua sponte dismiss a pro se complaint for lack of personal jurisdiction. Only a party may

No. 88-7083-REARDON V REARDON, ET AL
raise these claims as affirmative defenses in responsive pleadings. Fed. R. Civ. 12(b), (h)(1). Improper venue and lack of personal jurisdiction are "threshold defense[s]" which "absent timely objection" are deemed to be waived by party. Anger, 791 F. 2d at 058. See 28 U. S. C. 1406 (b); Fed. R. Civ. P. Rule 12 (h)(1).

In Anger, the court reasoned that vacatur and remand was proper since due consideration must be given to a litigant's pro se status. See Anger, 791 F. 2d at 958. See also Haines v Kerner, 404 U. S. 519. (1972) Moreover, the court noted, a defend -

No. 88-7083-REARDON V REARDON, ET AL

-ant could fail to raise either defense.

If the defense is not affirmatively pleaded, it is waived.

Clearly this court would prefer to have the venue issue aired before the district court. Anger, 791 F.2d at 958. Here, however, appellees Samuel D. Natal, John L. Miller and Albert J. Scarduzio have raised the venue issue on appeal. therefore, it would serve no purpose to remand this portion of the case to the district court. the same is not true of the appellees who failed to file responsive pleadings before this court. Accord

No. 88-7083-REARDON V REARDON, ET AL

-ingly, we remand that portion of the
case to the district court for further
proceedings consistent with Anger.

AFFIDAVIT

The undersigned parties do hereby attest and affirm the following facts took place on Tuesday morning July 14, 1987 at the Camden Co. Hall of Justice relating to the matter of Reardon v Reardon

A) The judge did prevent the petitioner--John E. Reardon--from making an appearance on the record.

B) The petitioner was denied by the Judge to place an opening objection on the record regarding the proceeding and self incrimination in a criminal proceeding.

C) the criminal proceeding was domestic violence and the judge did require the petitioner to be sworn in and denied him his right to plead the 5th

D) Prior to the hearing, Mrs. Reardon, her counsel and her brother-in-law came from the Judges chambers area.

E) During the hearing and questioning, on at least two occasions, Mrs. Reardon did look to the judge as though looking for guidance or an answer and the judge did make a hand gesture that was slight but noticable.

F) The judge refused to hear the petitioners statements that the court lack-

ed jurisdiction due to the cases of Doran, Hicks and Younger which prevents two forums from addressing the same issues and allegations.

G) When this was brought to the courts attention the court responded by saying that "he didn't care what was going on in the other cases", or something to that effect.

H) The court did require the petitioner to testify against himself in a criminal proceeding without counsel.

I) The petitioner did inform the court he was unaware of the specific nature of the action and what he was sup-

posed to be defending himself against.

J) The judge never asked the petitioner if he had counsel, could afford counsel or even wanted counsel.

K) The judge refused to permit the petitioner from challenging the merits of the plaintiffs allegations and when he did his remarks were they had no bearing on the case.

L) The court did proceed in a fashion which required and requires the petitioner to prove the states and Mrs. Reardon's charges for them

M) Depsite testimony from the plaintiff--Mrs. Reardon--herself that at no

time in the past five years had the petitioner ever acted in a fashion that she was alleging, nor had she ever had occasion to file a domestic violence complaint or complaint with the Division of Youth and Family services, the court still accepted Mrs. Reardon's allegations as truth and entered an order depriving the plaintiff of his rights to custody and the love, affections, company and companionship of his children

N) The judge refused to permit the petitioner to rely on the defense of estoppel and collateral estoppel which bars a party from re-litigating issues

and facts that have been litigated in the past and found insufficient proof to warrant such action as the court took on July 14, 1987.

O) The judge did further permit the plaintiff to make the allegations that the petitioners pending complaints are in fact frivolous, meritorious and specious but more importantly the reliance on said allegations was to try and make the petitioner look psychotic because he believes in fighting for and protecting his rights.

We the undersigned do hereby make these statements under oath of perjury

and realize that these are our observations and perceptions of what was taking place.

Dated: 7/16/87

By: _____
John E. Reardon

Notary Public:
William Brennan

By: _____
John DeFerro

8/13/90
My Commissions expires

80

Attention Miss Knox

C/O Clerks Office

U. S. District Court

P. O. Box 515

Trenton, N. J.

Dear Miss Knox,

As per our conversation of Aug. 5, 1988 and as per my previous conversation regarding the list of lawyers, Please find enclosed a list of attorneys I would like verification on as to whether or not they are attorneys of record and authorized to practice in the federal court. Their names are:

Alan Alasken

Theodore M. Costa 12-17-81

Harris Cotton 12-22-58

Dorris Dabrowski 12-6-78

David C. Epler

Robert Eyre

Phil Fuoco 2-7-72

Francis Hartman

Janice Icez

Robert Kaplan +

John Kapp 12-20-84

Michael potter

Davis Reberkenney

John F. Strazzults 6-6-61

Please bill me.

Respectfully,

+ Robert D. Kaplan 9-19-61

Robert J. Kaplan 12-9-86

Robert M. Kaplan 12-18-80

UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY
OFFICE OF THE CLERK
U. S. P. O. & Courthouse
NEWARK, NEW JERSEY 07101

SEPTEMBER 8, 1988

Reply to: TRENTON

A. Gambone

RD 31 Box 545 Lot D1

Sewell, N. J. 08080

Dear Miss Gambone:

The admission dates are provided for
the attorneys admitted to the U. S. Dis-
-trict Court of New Jersey.

There is no fee.

Very truly yours,

William T. Walsh, clerk

By: Julia C. Knox

Financial Deputy

U. S. DISTRICT COURT FOR
THE DISTRICT OF N. J.

John E. Reardon, et al:

Plaintiffs, : Civil Case No. 88-782

v

Virginia Reardon, : Objections to Rear-
et al : don & Epler
Defendants. :

This comes as a formal objection to the response to the above captioned complaint by the defendants Reardon and Epler. This brief then sets out the reasons and basis for the objections and said objections are as follows.

This court is required should first draw its attention to local rules 4, 6 &

7 of the rules of court regarding attorney conduct and the American Bar Association Rules and Regulations. The plaintiff then draws the courts attention to the case of *Bachman v Pertschuck*, 437 F. Supp. 973 (D. D. C. 1977)—for one—found that where an attorney who is likely to be called as a witness may not take representation of a case for any of the parties thereto. This case relied on ABA Rule 3.7. The basis for this objection is there is an obvious conflict of interest. In accordance with the comments of this rule, it is the responsibility of an advocate to analyze the proofs and a wit-

ness to provide the proofs. Thus, so long as the defendants realize that when Mr. Epler is called as a witness he cannot provide verification or denial of questions, and thus would be in no position to deny the allegations as he cannot provide proof, then the plaintiff will accept this arrangement under the knowledge that unless he now provides some means of proof to deny the charges he is open for summary judgment for such position. The plaintiff would demand at the pre-trial conference, if this position is maintained, that sanctions be placed against the defendant Epler regarding

the limiting of his testimony in denying any of the allegations since he cannot so testify and defend at the same time.

If, However, this is not agreeable to Mr. Epler, then the plaintiff would then request sanctions be placed against Mrs. Reardon and default be entered against her and/or to limit her denial of the allegations unless she obtained new counsel. This, is again requested to comply with justice and proper procedure and unless Mrs. Reardon has a new attorney at that time, sanctions will be sought against her.

Nonetheless, the plaintiff demands that

the parties, prior to the July 12, 1988 pre-trial conference, be required to prove that they have sanctions placed against them. The ABA Rule specifically says: (R 3. 7)

Attorney's will not take representation of a case where it is likely they will be called as a witness, unless:

- 1) The testimony is on uncontested issues.
- 2) The testimony relates to the nature and value of the services rendered or
- 3) It will work a hardship on the cli

-ent if he/she does not represent.

An analysis of these criteria will reveal the following. First, since there is no AND or OR between items 1 and 2 it must imply that if either of these two items cannot be met, then the attorney will not represent. (i. e. this and that must be done to fulfill the requirements or it fails.) While the OR between items 2 & 3 implies that if item one is present, and either of 2 & 3 is present then it is proper to represent. (i. e. items A and items B or C must be met.) The analysis of this case reveals the following, (1) Clearly from the an-

swers proffered by the defendants, there are contested issues to be testified to. Therefore, item 1 cannot be met. Next, (2) reveals that the primary testimony is of the attorney's actions, and while there is some testimony which may arise regarding the attorney client relationship--such as was it the attorney's idea to send the letter to the Gloucester County Court or did he do it at Mrs. Reardon's request--if he or they chose not to testify on such questions based on the attorney client privilege, so be it, but knowing that an attorney's first responsibility under N. J. S. A. 2A:13-1 & -10 is

to the court and justice first and refusal's to testify hurts them not the plaintiffs. Finally, (3) will reveal that Mrs. Reardon is in a job in which she makes a gross salary in excess of \$30,000.00/yr. and also gets \$4,680.00/yr. in child support and thus there can hardly be any demonstration of hardship on the defendant Reardon that the plaintiff can see. Nonetheless, the plaintiff requests proof of the attorney Mr. Epler being able to meet these requirements by 7/12/88 or sanctions will be sought against one or both of the defendants.

Dated: June 21, 1988

John E. Reardon for
the plaintiffs.

U. S. COURT OF APPEALS
FOR THE THIRD CIRCUIT

John E. Reardon, et al:	:	
	:	
Appellants,:	:	Case No. 89-5035
	:	
v	:	
	:	Petition For Re-
Virginia Reardon, etal:	:	Hearing In Banc
	:	
Appellees.:	:	

The appellants in the above captioned matter do hereby petition this court for a Re-Hearing In Banc in the above captioned matter on the grounds that the lower court and the appeals court panel has failed to (1) comply with *STARE DE -CISIS* criteria, (2) has injected and allowed the the lower court judge to in-

ject its personal opinion and point of view of the law regarding *JURISDICTION* by re-hearing this issue and entering a ruling contrary to the court of appeals in Washington, D. C. contrary to the criteria of *Res Adjudicata* and the Supreme Court decisions on such issues, (3) and for refusing to comply with and enforce the rules of court except in a fashion which is always prejudicial and injurious to the petitioners.

On February 4, 1988 the appellants filed case 88-0286 in the U. S. District Court for the District of Columbia. (see attached exhibits 1 & 2)

On the same day, appellants filed a motion for a temporary restraining order.

On the same day, the judge dismissed the complaint for lack of **VENUE**.

Within the time prescribed by statutes, the appellants filed a notice of appeal and filed said briefs with the court of appeals due in Washington, D. C. (see exhibit 3)

In response to this appeal, the state filed a brief in opposition (see exhibit 4)

In the appellants brief, the appellants did raise the issue of "**SUBJECT MATTER JURISDICTION**" with the court of

appeals due to the criteria being that both " **PERSONAL** and **SUBJECT MATTER JURISDICTION** being required to be found before a venue dismissal may be considered proper. (see exhibit 3)

The response by the attorney general of the State of N. J. --Mr. John Armstrong --responded to the appeal by addressing the issue of jurisdiction and implying said jurisdiction of the court existed. (see exhibit 4)

The court of appeals, having the issue of jurisdiction then before, it did there --by address this issue and found that the appellants had alleged " **NUMEROUS**

**VIOLATIONS OF THEIR CONSTITUTIONAL
AND STATUATORALLY PROTECTED RIGHTS"**
 . (see appellants appendix at 168,
 para. 2, this is precisely the state
 -ments necessary to establish Sub-
 ject matter jurisdiction under 28
 U. S. C. 1331 and 1343 along with Art.
 3 and Insurance Corp. of Ireland v
 Compagnie Des Bauxite, 102 S. Ct. 2099
 , 2104)

The appellees did then knowingly pe-
 tition the court of appeals in D. C. to
 still dismiss for want of venue despite
 knowing the court must first address the
 issues of subject matter jurisdiction,

and the Court of appeals also being aware of this, did then allow the state to dismiss for want of venue knowing that subject matter jurisdiction would in fact then be considered resolved by them.

The appellant did inform the other appellees--same as in this appeal--of the appeal and its contents and the appellees failed to participate and respond in kind.

Because the D. C. Judge did not offer to transfer in accordance with 28 U. S. C. 1406, the appellants did file case 88-782 in the district Court of N. J. and for

for which the matter went to Judge Anne Thompson (see exhibit 5)

The issue of jurisdiction was an issue in case 88-0286, it was raised by the appellants and Appellee Mr. Armstrong for the State in this matter. The complaints--88-0286 and 88-782--are the same complaint involving the same issues and same parties and this issue was raised and decided by the court of appeals in Washington, D. C. and not subject to re-review or subject to attack by any of the parties in case 88-782, or permitted to be re-decided by the lower court and affirmed by the appeals panel in this

matter.

The appellees Voorhees did accept representation from an attorney not admitted and authorized to practice in the District Court of New Jersey. (see appellants brief @ pages 29-31.)

The appellees Reardon and Epler did also enter into a relationship which is prohibited by law and for which Mr. Epler was also not an admitted attorney of record authorized practice in the District Courts of New Jersey.

At no time did the appellees ever claim to be challenging jurisdiction because of a fraud committed against the

Courts in D. C. and at no time did the lower court ever confirm or address the fact that this is or was the basis upon which jurisdiction was now being challenged or re-reviewed. (see appellant's appendix @ pages 1-21.)

The appellants repeatedly requested a right of discovery and for leave to amend and all requests were denied.

QUESTIONS PRESENTED

1. Does any court have the right to re-decide any issue once it has been decided and the issue was raised in a case involving the same parties, same facts and exactly the same issues? Given that this

cannot be done, and given that the parties in this matter do not have valid answers on record for various reasons and was so argued in the brief, is any party then entitled to **default judgement** in accordance with **In Re Grossmeyer**, 20 S. Ct. 535 when process has been carried out and subject matter jurisdiction exists?

2. Has the criteria of **STARE DECISIS** been complied with in this matter?

3. Has the court permitted the continued and known violation of Rules of Court, Rules of ethical conduct, Supreme Court decisions, and demonstrated prejudice/

pre-disposition to rule in this matter?
And, in so doing, has it violated due process of law and denied other protected rights in this matter and does it have the right to so do these things?

LEGAL ARGUMENTS

POINT 1

If the court will **examine exhibit 3** it can clearly see that the appellants raised the issue of subject matter jurisdiction with the court in Washington, D. C. If the court will next **examine exhibit 4 @ page 4**, it can see that the State Attorney General's office also implied jurisdiction to the court of

appeals in that matter. If the court will next **examine exhibits 2 and 5** it can see that these two cases are in fact one in the same case. While it is true that subject matter jurisdiction cannot be conferred upon the court by the parties, **Baldwin v Travelling Men's Ass.**, 283 U. S. 522, it is equally true that the issue of *subject matter Jurisdic-tion* must be resolved before any decision, including that of venue, may be resolved. **Insurance Corp. of Ireland v Compagnire Des Bauxite**, 102 S. Ct. 2099, 2104; **Schlanger v Seamans**, 401 U. S. 487, 491, citing, **Rudick v Laird**,

412 F. 2d 16, cert. den 90 S. Ct. 244,
396 U. S. 918, 24 L. Ed. 2d 197, citing
Bookout v Beck, 354 F. 2d 823, 825, 4th
cir. ; Miss. Pub. Corp. v Murphree, 326
U. S. 438, 441; Graham v Brotherhood
of Firemen, 338 U. S. 232, 235, 236; Nei-
bro Co. v Bethlehem Corp. , 308 U. S.
165, 168; Lucas v Hodges, 738 F. 2d
1493, 1497, C. A. D. C. 1984; Diogenes v
Malcolm, 600 F. 2d 815, 818, 3rd. cir.
1985 citing Rudick SUPRA and all
references of this court in Point 2
below. Thus, once the issue was raised,
the court was required to decide such is-
sue first, and if the court will exam-

ine Appendix page 168, para. 2, the court did just that.

Given that the above criteria is clear and that jurisdiction must first be so decided and in fact was so decided, and given further that the issue of venue was raised by the state for resolution and it was so resolved, and given that it was resolved in the appellant's favor, and given that the cases involve exactly the same parties, same facts and same issues, the question of this point must be asked and decided. According to the Supreme Court in *Polizzi v Cowles Mag.*, 345 U. S. 663, 665, the lack of ven

-ue does not deprive a court of jurisdiction. Thus, with the question raised by the State and the appellants, and being waived by failure to participate in the D. C. matter by the remaining appellees who are parties to both suits/actions, the Supreme Court has found in **Sullivan v Behimer-Blakis**, 363 U. S. 335, 339, 348, 350 and _____ v _____, 60 S. Ct. 320, that once any issue has been raised, could have been raised and was not so raised or was decided, that unless said issue is raised in conjunction with a claim of **FRAUD**, it is **RES ADJUDICATA BARRED** from being re-raised. And

, as the *STARE DECISIS* criteria in D. C. has found, Improper venue does not declare a case as *FRIVOLOUS*. *Anger v Revco Drug Co.*, 791 F. 2d 956-958, citing *Sinwell v Shapp*, 536 F. 2d 15, 3rd cir. 1976 and *Brondon v Dist. Of Columbia Brd. of Parole*, 734 F. 2d 56, C. A. D. C. 1984. In *Brondon SUPRA*, the court found that as long as a case had an arguable basis of law and fact it could not be dismissed as frivolous. Since the court had not so dismissed in any of the above fashions--i. e. want of jurisdiction, or being frivolous and the issues were raised--the issue of juris-

diction had been raised, resolved and decided and could not re-raised by anyone in case 88-782 and could not have been joined with case 87-3605 for dismissal purposes since it was barred by *RES ADJUDICATA*. see also, *Thompson v Whitman*, 18 Wall 457, 467-469.

Given the above, it was therefore not possible for the lower court to decide this case on want of Jurisdiction/cognizance--see appendix page 18--for which we all know that cognizance is defined as the ability/power/jurisdiction of a court to hear and decide a matter. *Kendal v U. S.* 12 Pet. 524, 622

, 9L. Ed 1181, 1220. this then is clearly an abuse of power and discretion, a refusal to uphold Supreme Court decisions, a demonstration of prejudice and predisposition by the lower court and a demonstration of prejudice on the part of this panel who continues to deny these appellants of their rights and to continue to injure them and permit criminal wrong doing of all sorts and to bend the rules and laws in favor of the trained professional rather than in favor of the untreaigned/uncounselled *pro se* person as the law requies.

Given the resolution of the problem

above, the answer to default can be found in the case of **In Re Grossmeyer**, 20 S. Ct. 535. In this case, the Supreme Court found that where the court has both subject and personal jurisdiction, and the parties have failed to appear and answer the complaint, that **MANDAMUS** may lie against the judge to enter Judgment by default. In this matter, we have the defendants in Voorhees not having properly and timely answered the complaint due to the fact that they accepted representation from a non-admitted attorney authorized to practice in the Federal Courts. We have Runnemedede not fil

-ing a timely answer in case 87-3605 and we have Mrs. Reardon accepting representation of a non-admitted attorney of record. In case 88-782, we have Mr. Epler--the same non-admitted attorney for Mrs. Reardon in case 87-3605--again attempting to not only represent Mrs. Reardon, but he is also a co-defendant in case 88-782 which is prohibited by case law. We have Dr. Gordon, Mr. Costa and the County all not answering or timely answering the complaint. In case 87-3605 there is no who has answered according to the requirements of Rule 4 time limits, yet we have the same lower court.

judge dismissing matters of Mr. Reardon if he does not timely proceed to serve the summons and complaint. (lower court numbers 88-1539 and 88-1204, also, as to default, see appellant's appendix e pages 21-31.)

Given that the appellants had continually requested timely answer, given that the appellants have been subject to personal prejudice, see AA 156-157, and given that the parties are in valid default and have no excuse for not answering except to take the risky approach they have chosen, mandamus would be most appropriate in this case with direction to

order relatively quick trial as to the damages phase regarding the amount of damages and who should be liable for what.

Point 2

As the court choould have seen by now , the appellants at no time were given leave to amend or permitted right to discovery. This situation is not consistant with *STARE DECISIS* or other legal criteria. there is no question this court attacked the complaint from the aspect of jurisdiction because it found that the case of *Rosquist v Jarret*, 570 F. Supp. 1206, 1211 is controlling and

that court found that the court lacked jurisdiction, and thus the allegations such a made in this complaint were without merit. However, even given that Point 1 is not accepted by this court for some reason, we have a further problem with the use of *Lockhart v Hoenstine*, 411 F. 2d 455, 460, cert. den. 396 U. S. 941. When the plaintiff in that case had no more than his own affidavit in opposition to the clerk's statement of personal knowledge, while in this case, the plaintiff has alleged the existence of tape recorded conversations with the Judge's--defendant Miller's--staff in

which it was stated(1) the judge heard no matters on 7/2/87; (2) there is no record of either the 7/2/87 or 8/17/87 orders; (3) that the Judge would not have signed the 8/17/87 order after he was sued and (4) that they checked the Judge's personal file, the docket itself, the Judge's calander and the Judge's desk and could find nothing to verify these orders. The implications and use of these two cases as controlling in this case are far mis-placed and their relevance and thus alters the intent of such case criteria as **Addickes v Kress & Co.**, 398 144. Such an appication here is not

consistant with *STARE DECISIS* in this circuit regarding significant facts of controversy and for discovery and summary judgement.

The next area of *STARE DECISIS* not complied with comes from the cases of *Colburn v Upper Darby Twp.*, 838 F. 2d 663, 1988; *Ross v Meagan*, 638 F. 2d 646, 1981; *Rotolo v Borough of Charleroi*, 532 F. 2d 920; *Kaufmann v Moss*, 420 F. 2d 1270, 1970 and *Negrich v Hohn*, 379 F. 2d 213, 1967. In each of these cases the court found that it is an abuse of discretion to dismiss a case for lack of jurisdiction or under R 12-B(6) for lack

of specific statements without first offering the party an opportunity to amend. (see AA @18) this decision is consistent with **Foman v Davis**, 371 U.S. 78. Since there is obviously a difference of opinion/conclusion between "REASONABLE MEN" this court should not have dismissed without offering said leave to amend. this court cannot differ in opinion from the court of appeals in D.C. on the same case, the same parties and same issues because it is forbidden from the Supreme Court decision from so doing, and according to the criteria for summary judgment also indicates that if two opinions

could be reached, then dismissal is not proper either.

We then have the criteria of this court in the cases of **Solomon v Solomon**, 516 F. 2d 1018, 1975; **Trent Realty Ass. v 1st Fed. Sav. & Loan Ass. of Phila.**, 657 F. 2d 29, 1981; **Cospisito v Califano**, 89 F. R. D. 374, 1981 and **Compagnie SUPRA** which found that dismissal for want of jurisdiction must be raised by the court sua sponte and not by summary judgement. For if such a motion is to be made by such process it must be denied. If the court will **examine** AA 34-55 it can clearly see an ob-

jection was strongly made by the appellants and such dismissal was granted any way and affirmed by the panel.

The next problem with *STARE DECISIS* is found in the cases of *Miller v U. S.*, 530 F. Supp. 611, relying on *Bell v Hood*, 327 U. S. 685, which found that where jurisdiction is to be tied with the merits of the facts as it relates to this issue, the court must permit the party opportunity for leave to amend to correct these technical defects. Again, the request for leave was made and was repeatedly denied.

Again, from the above criteria the

court has abused its discretion, refused to comply with STARE DECISIS, has demonstrated prejudice by refusing to apply the laws equally in this case, and has continued to demonstrate its attitude of injury to these appellants because they do not like what the appellants are attempting to do. Especially when the case of *Sanders et al v Sanders et al* is pending in the District Court of the United States in Camden County before Judge Cohen. This case also stems from a custody/divorce matter and he too is suing Judges and lawyers. Why then is his case still pending and these parties

case(s) are not? Clearly, the court has abused its discretion and demonstrated its prejudice.

Point 3

The first question here is that involving Rule 9 of this court. If the 10 day rule serves no valid purpose, then why bother to have it in the rule. If a party has the right to appear and participate at any time, then the 10 day rule is not needed, for its purpose is like that for default. The failure to comply with the 10 day requirement is to establish a time for default. If the court will examine the order at the end

of this brief, it can see that some the counsel have been given a go ahead to submit bills for costs even though they did not comply with Rule 9 time requirements, the appellants submitted a brief/ motion in opposition to this practice that violates the rules and the court panel never answered this motion In fact , this is a clerk motion, was submitted to the clerk(s) office and they refused to answer it. How is this justice if a party is in default and then they can be permitted to obtain costs against the moving party? In case 88-1204 and 88-1539 Mr. Reardon served the summons and com-

plaintiff, and the court claimed it was improper but failed to allow re-service in accordance with **Gibson v Twp. of Bass River**, 82 F. R. D. 122 rather than require re-filing of the complaint. The court seems to go out of its way to rule against these appellants without concern for the law or the injury it creates to and for them Where is right of the *pro se* to be treated as such under the law? (case law omitted here due to the well establishment of it.)

The next problem is that of the right of a court to change the intent of the Rules of Court. the rule regarding oral

argument on motions is that such arguments may be denied only if the matter pertains to disputes in the laws. But here, the court has dismissed for want of jurisdiction on a summary judgement approach. As the above arguments clearly indicate, the denial of oral argument when said question of dismissal is tied to the factual allegations of the complaint--i. e. the merits of the facts themselves--is totally contrary to the Rule requirement and the discretion of the court given the procedure by which the court has chosen to dismiss and the case law above. This is but another ex-

ample of how the courts are prejudiced and predisposed to rule and refuse to comply with the law and legal process.

Lastly, if the court will examine the exhibit submitted with the 5-10-89 motion to inform the court of other case law, it can see that in that case, the court found that where a judge sets a continual pattern or practice which is directed at/against a particular group of persons, and that group is recognized as protected by the 14th Amendment, that the judge in fact is guilty of discrimination and answerable in suit in federal court whether the State laws says he can

-not discriminate or not. If the court will examine pages AA 79-138 it can see that the appellants charged the state court judge with having establish -ed such a pattern and in accordance with the case of *Passman v Davis*, 442 U. S. 228 the court could not dismiss. See also *Bell SUPRA*; *Brondon SUPRA* @ 957 ; *Palmore v Sidotti*, 51 LW @4498 and Appeal #89-5180 before this court.

Lastly we have the case of *Cort v Ash*, 422 U. S. 66 and related cases, which has found that any person has the right to either civil or criminal redress. If a Civil remedy will not lie, the

person has the right to file criminal charges. If the court will carefully review the appellants briefs, this brief and note that Miss Bess Meyerson was prosecuted in New York on Federal Criminal Charges for doing exactly what the appellee Reardon has been alleged to have done here. In fact, in this case there is very strong evidence of wrong doing in the existence of the following:

1. Electronic recordings in accordance with 18 U. S. C. 2511(d) in which Mrs. Reardon was recorded as threatening to make Mr. Reardon pay for walking out on the marriage and that she would see to

it that Mr. Reardon would not see his children again if he did not do as she wished.

2. We have Mrs. Reardon being a court clerk with direct access to the Judge's chambers, being on a cordial working relationship with the judges and we have politics involved in the hiring of Mrs. reardon and her promotions.

3. We have that Judge Miller never heard any matters on 7/2/87. (recorded conversation with the Judge's staff.)

4. We have that the Judge's staff could not find a copy of the 7/2 or 8/17/87 orders in the docket, the judge's

file, the Judge's callendar or anywhere else.

5. We have a recorded conversation with the Judge's staff which admits the judge would not have signed the 8/17/87 order since he was being sued civilly and

6. We have Mrs. Reardon in possession of both of these claimed orders which bear none of the requirements of 28 U.S.C. 1738.

7. We have Mrs. Reardon and her former counsel being seen coming from the Judge's chambers from an Ex Parte conference prior to the 7/14/87 hearing, we have the court turning this hearing in-

to a KANGAROO COURT, we have threatened prosecution on the fraudulent orders, and we have the appellant having been found guilty of contempt on this fraudulent order.

8. We have the appellants writing the U. S. Attorney general--formerly Mr. Meese--regarding these charges of falsification of court documents--same as Miss Meyerson--and was told to contact the Newark Office, I did, and then never heard anything from the office.

9. Thus far, the appellants have been denied the right to proceed for civil or criminal redress.

Clearly, from the above and the allegations and proof available, there is more than sufficient circumstantial evidence to prosecute all of these people for conspiracy and violations of rights. The only reason it does not, is due to the personal point of view of the judges to protect these people simply because they are part of the system. The court has clearly said one must have remedy in one form or another or there is a violation of rights in this aspect by itself. Thus far, the appellants have been denied access to any redress of wrong doing. Which process does this court intend to grant

these appellants?

CONCLUSIONS

For all of the forgoing reasons the court should grant one or more of the following items of relief.

1. A reversal of the order of the appeals panel and a mandate directing entry of default with direction to proceed to trial on the damages stage.
2. A complete review of the appellants' brief for reconsideration on all points.
3. Consideration of the relief the appellants requested/sought in their brief.

4. An order removing/barring Judge Thompson from sitting on any further matters of any of these appellants.

5. A similar order regarding this panel of three judges or an order preventing these three judges sitting together in any of these appellants future matters--i. e. only one of these judges at a time but not two or all three together.

6. An order granting the appellants the right and assuredly that they may file criminal charges with the FBI or other appropriate agency.

7. Any other relief deemed appropri-

ate by the court.

I hereby certify under oath and penal
-ty of perjury, in accordance with **Hod-**
gin v Agents of Montgomery Co. , 619
F. Supp. 1550, 1552, that all statements
of fact are true and accurate to the
best of my knowledge and belief.

Dated: May 27, 1989

John E. Reardon for
the appellants

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22. Papers showing attorney who is in- volved in preparation of false pap- -ers for anyones arrest has abso- lutely no immunity for liability..	174

AFFIDAVIT OF JOHN DEFERRO

I, John DeFerro, do hereby attest and affirm the following facts under oath and penalty of perjury.

1. I was with Mr. Reardon on July 26, 1989 when he was in Trenton and he reviewed the docket files in cases 87-3605 & 88-782 and found his 60 page affidavit of specific facts were not in either file.

2. On the following day, Mr. Reardon and myself had some things to take care of and he did show me his copy of his "affidavit of specific Facts" marked received 9/7/88 by the clerk William T.

Walsh

3. I was also with Mr. Reardon when he reviewed the docket in case 88-5571, Baumgarner, et al v Baumgarner, et al and saw that Judge Thompson's order of 3/28/89 was entered in that case and that it was entered as a result of the plaintiff's motion for default with no opposition having been filed and without prior notice to Mr. Baumgarner by Judge Thompson of her intent to so dismiss and why.

4. Mr. Reardon did later show me his order by judge Thomspon in his case, and with the exception of the parties, the orders were virtually the same in con-

tent and concept. (also, in Baumgarner it was entered sua sponte by the court and in Reardon, it was upon motion for summary Judgement.)

5. I was also with Mr. Reardon and witnessed the fact that 70 to 80 fathers have submitted affidavits in the Baumgarner case complaining of the similar/ same problems that Mr. Reardon and Mr. Baumgarner are experiencing in the state courts at all levels.

6. I have further been apprised of Mr. Reardon's reference to my case in the U. S. District Court in Pennsylvania and can apprise this court that Mr. Reardon

has been assisting me in that matter in any way he can and that the court first dismissed my complaint, and after a motion for leave to amend specifying the differences between Lockhart v Hoenstine , and this court's opinion of Judicial versus administrative acts--i. e. whether the acts are normally performed by a Judge as opposed to another person under Ex Parte Va. , the court has so granted leave to amend and is allowing the case to proceed against the judge under Forrester v White.

I further attest that presuming Mr. Reardon's allegations are true, that if

someone other than a judge is authorized to "rubber stamp an order signed and Fil-
-ed" then it is my opinion that such would be an administrative act due to the case law criteria and Judge Katz order in my case.

7. I further state that Mr. Reardon has shown me the case law criteria for a judge to recuse himself, 657 F. 2d 948, 954, that the court must view its position and actions in a case as the average person on the street would consider them and if the average man would consider them improper and expect the court to remove, then the court must so remove it-

self.

After learning of Mr. Reardon's problems, such as:

A. The Judges be pre-disposed to rule as exemplified by the orders in Mr. Reardon's case and Mr. Baumgarner's case and that neither of these pro se parties were given opportunity to a hearing, a right to discovery, a right to leave to amend and the court having entered virtually the same order.

B. That the court's are holding the pro se person to the strictest of applications of the rules in that the trained professional and counselled

person does not have to comply with the rules and process but the pro se does and if the pro se may gain an advantage by the opposing parties failure, the court will step in and protect the defendants/adversary.

C. In Mr. Reardon's case, despite Mr. Reardon showing case law from virtually every circuit court of appeals and from this court, as well as the D. C. Appeals court decisions in his case --#88-7083--on personal jurisdiction being a waivable defense if not timely plead in some fashion, and despite the fact that Mr. Reardon served both

the U. S. Postal Service and U. S. Attorney General, and perhaps not according to the rules as interpreted by Judge Thompson, that the Postal Service and U. S. Government failed to answer the complaint and failed to file a motion objecting to the court's jurisdiction because of "improper service", Judge Thompson once again stepped in and prevented the defendants from waiving a waivable argument and dismissed his suit for want of personal jurisdiction due to improper service, in her opinion, and placed \$200.00 in sanctions against

Mr. Reardon on the claim he continues to fail to adhere to the rules of court.

D. The judges have refused to grant Mr. Reardon a right to be heard on the record, to oral argument and to the various hearings he is permitted by case law to have--i. e. adversarial hearings prior to dismissal, merits hearing prior to dismissal, merits hearing prior to the remand of a case removed, oral argument when questions of fact are involved, and a general hearing prior to the dismissal of any matter.

E. Manner more problems too numerous to list and count.

It is the opinion of this average person's belief that Mr. Reardon has not been treated fairly in the federal court system at any level and it is further my opinion that Mr. Reardon has not been battling the defendants, but rather the courts and Judges who have determined he will not win no matter what.

It is finally my opinion that I doubt if Mr. Reardon will ever receive a fair hearing in this circuit and before these judges and they all should have removed themselves long ago. And, that Mr. Reardon

should at least be granted re-review and a right to a proper hearing in this matter if it cannot be so had in all his other matters.

I hereby make these statements of my own free will and not out of any sense of loyalty or obligation to Mr. Reardon due to the fact that if the Judges are made to believe and made aware that they can do it to Mr. Reardon and get away with it, they will be able to do it in my case and I do not want this, for my case involves the loss of \$300,000.00 in actual monies. And if I cannot get relief in state court--as is being claimed--and

cannot get it here in federal court, where
are men to go to protect their rights.

Dated: 8/7/89 (John DeFerro)
John DeFerro

2/8/94
My Commisions Expires

By: (Ann M. Chain)
Notary Public

This is one of 80 affidavits Filed
By Fathers in 3 currently pending
Cases in Federal Court. The cases
are Auger v Auger, Sanders v Sanders
and Bumgarner v Warth

I, Raymond Auger, being of full age and
being a divorced non-custodial parent in
the state of New Jersey state as follows:

[1] That as a father, I have been sexually discriminated against in the New Jersey Family Court, County of Burlington, and have had my rights violated and my children's rights violated.

[2] the present divorce system in New Jersey is inherently flawed and has created huge problems in my life and my

children's lives.

[3] The present divorce system will not give custody or joint custody, which is in the children's best interests.

[4] I have suffered visitation interference and have not been able to uphold my rights because the court will not enforce their own orders.

[5] I am paying excessive child support that is being used without any accountability of how it being spent. These excessive amounts have put me into a financially precarious position

[6] I cannot get decent representation in Family Court by attorneys. Due

Process is being violated.

SIGNED: Raymond Auger

Dated: 2/25/89

ADDRESS: 10 Brockton Way, Mt. Laurel, N. J.

ZIP: 08054 PHONE(optional): (609-866-9598)

Larry Bumgarner
26 West Marlton Avenue
Absecon, N. J. 08201

March 21, 1989

William T. Walsh
U. S. District Court
Box 515
Trenton, N. J. 08605

Re: Bumgarner v Warth, et al Filed: 4/7/89
Civil Action 88-5571 (AET)

Dear Mr. Walsh,

On March 28, 1989, Judge Anne Thompson
signed a court order dismissing this civil
action I feel that there has been a
mistake made and would like a reconsider
ation of the dismissal.

The facts and legal issues were forwarded
to Judge Devine instead of Judge

Thompson Judge Thompson therefore ruled without fully understanding that this is a Civil Rights case.

On March 21, 1989, Judge Devine, in the scheduling conference felt strongly about the facts and the law to order everyone back into his chambers on May 1, 1989.

Judge Thompson must realize that this case is not an isolated event construed by someone who just wants to claim that his constitutional rights have been violated. Fathers and children throughout the entire state of New Jersey are being treated as second rate citizens without

certain rights that they should be accorded. I have affidavits of an unusually large number of fathers to substantiate what I say. Judge Thompson's decision sends a direct message to the State of New Jersey and its officials that they can proceed unheeded in their pursuit of their persecution of United States citizens. the most important function of the Federal Court system is to provide protection of this sort of behavior against te citizens of this country.

Therefore, because of the legal issues that I have enclosed, I respectfully request reconsideration of Judge Thompson'

s decision

Very truly yours,

Larry Bumgarner, pro se

Speacial Note: the district court has established a pattern with pro se people whereby it brings them in -to court for pre-trial conferences before a magistrate, the defendants then file some form of motion to dismiss without the right of the opinion of the magistrate as per the F. R. Civ. P. , Local Rules of Court and 28 U. S. C. 636(b)(1). In the petitioner's case and this case, there is no such opinion on record of the

magistrate even though the, magistrate in both cases apparently held different views of these cases.

UNITED STATES DISTRICT COURT

DISTRICT OF NEW JERSEY

Chambers of	U. S. Court House
Anne E. Thompson	402 E. State Street
Judge	Room 345
September 1, 1989	Trenton, N. J. 08605
John M. Armstrong	John E. Reardon
Deputy Att. Gen.	Oakridge Terrace
Hughes Justice Complex	B-33
CN-116	Runnemede, N. J.
Trenton, N. J. 08605	08078
David C. Epler	
41 Grove St.	
Haddonfield, N. J. 08033	

Re: Reardon, et al v Reardon, et al,

Civil No. 88-782 (AET)

To All Parties:

Pending before the court Are several motions in the above case filed by various parties. The court will consider all

such motions. whether filed for Sept. 15 or Sept. 19, on its Sept. 15 motion day. All motions will be considered on the papers without oral argument pursuant to Fed. R. Civ. P. 78. All responses must be received by the court no later than Sept. 15, 1988.

Very truly yours,

Anne E. Thompson

U. S. D. J.

AET: jnd

Note: compare this to items 11, 12, 15, 18, 19, 22, 23, 25 & 34 of pages 45-54 of the appendix and items 11, 12, 13 & 20 of pages 60-63 of the appendix. (What hearing is the court referring to?)

U.S. District Court For
The District of N.J.

John J., Judith A.
& John E. Reardon
Oakridge Terrace B33
Runnemedede, N.J. 08078

Plaintiffs,

Judge Miller, et al

Defendants.

RECEIVED

Civil Case No. 88-782
& 87-3605 (AET)

SEP 17 1988

Specific Facts

WILLIAM T. WALSH
CLERK

Facts

The Defendant Reardon was able to get her start in the